THE NEW COUNTY COURT RULES p. 944

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The Solicitors' Journal

VOL. LXXX. **Saturday, November 28, 1936.** No. 48

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Current Topics.

Legislative Slips.

THE familiar saying that mistakes occur even in the best of regulated families finds exemplification even in Parliamentary draftsmanship, as occurred last week, when a Bill was presented in the House of Commons by the First Lord of the Admiralty which spoke of the Washington Naval Treaty as the Treaty of February 6, 1932, instead of February 6, 1922. When discovered, a fresh recension of the Bill was issued. This may be regarded as a comparatively venial blunder, if a blunder ever is venial, but more serious mistakes in Bills and other documents emanating from the Houses of Parliament, which are supposed to be endowed with sovereign power, including in that term immunity from error, have sometimes occurred. One of the strangest slips ever made in connection with Parliamentary work was in the year 1844, when two Eastern Counties Railway Bills were in Parliament. One had passed all its stages, the other was still pending in the House of Lords, when, by mistake, the Queen was the innocent cause of giving her assent to the latter instead of to the former. When the error was discovered it was found necessary to pass another Act declaring that the Bill to which assent had been given should be deemed not to have received the royal assent. There is also a legend, perhaps it is nothing more, that in the old days a member of the House of Commons—an Irishman, of course—brought in a Bill requiring that certain proceedings should take place on 1st August in each year "unless that day shall fall upon a Sunday, Good Friday, or Christmas Day."

Divorce for Desertion.

IN the discussion which took place last week in the House of Commons on the Marriage Bill, by which it is proposed to make, *inter alia*, desertion without just cause a ground for divorce, reference was made to the fact that a recognition of desertion as a conjugal offence has been part of the consistorial law of Scotland since 1573, when an Act was passed in which this was spoken of as resulting from the doctrines of the Reformation. The Scottish legislature, however, at that time walked warily, for it required as a preliminary to the claim for divorce an action of adherence, that is, an action in which the errant spouse was called upon to resume cohabitation. If decree for adherence was granted, the church was called upon to admonish, and if necessary, to excommunicate, the offender—a duty which, we are told, the church invariably declined; and then, if all warnings were disregarded, the action claiming divorce followed. By the Conjugal Rights Act, 1861, the preliminary action for adherence was abolished, and thereupon the action claiming divorce could be commenced if there was desertion without just cause for four years; but, as is pointed out in the standard work of Professor GLOAG and Professor HENDERSON, although the formality of the action of adherence has been dispensed with, the conditions necessary to obtain divorce are in substance unchanged, that is, the desertion must have begun and continued without the petitioner's consent and without sufficient cause; and the action will fail if it appears that the petitioner had no desire to resume cohabitation and did not avail himself of such opportunities as offered to effect a reconciliation. In a comparatively recent case, where it was shown that the husband had been in desertion for the necessary period, it was decided that the wife was entitled to a decree, although he had, after that period, become insane and so remained at the date of the petition.

The Marriage Bill.

BRIEF allusion may be made to some other points of legal import raised during the debate on the Marriage Bill. With regard to the conciliation machinery in cl. 10, Mr. A. P. HERBERT referred to the present position when an application for separation came before the magistrates, and said that where a party "wanted or thought she wanted a divorce, at once it passed out of the realm of the kindly domestic atmosphere of those courts and she could only go to the assizes or the High Court." The proposal was that not every magistrate, but magistrates selected by the Lord Chancellor, who would probably be in most cases stipendiaries, and a woman magistrate, should automatically hear in the first instance all applications for divorce. Whatever, he intimated, happened to the substance of the clauses designed to effect this change, he would be extremely sorry to see the spirit of them thrown out of the Bill. The Attorney-General thought that everyone would agree that conciliation machinery was desirable, but whether the clause as drafted would in fact attain that end, whether it was the best method of attaining that end, and whether the double procedure which it involved was really practical were, he said,

matters which he thought it right to raise at that stage Clause 7, which proposed to abolish the decree *nisi* was one to which the same speaker could see very strong objections being raised, while cl. 12, which dealt with the right to ask witnesses as to whether or not they had committed adultery, might, in its present form, go too far, and he was not sure that after examination it would be found to be a wise change. Mr. W. P. SPENS, who said that he had little or no experience of the division of the High Court that dealt with divorce, but practised regularly in the division that dealt with the aftermath, urged that it was most important that the House and the country should realise what was the real problem which arose from the increase of facilitated divorce—namely, the children of divorced couples. He deprecated the proposed abolishment of the King's Proctor and the interval between the decree *nisi* and the decree absolute. The proposed scheme would, he thought, encourage collusive divorce. Lieut.-Com. AGNEW alluded to the difficulties and confusion which would arise as a result of the insertion of insanity as a matrimonial cause for divorce—a matter to which we have drawn attention in the past—as also to the difficulties like to be associated with proof in a court of law of cruelty as defined in the Bill, but he welcomed strongly the new causes for nullity. The Bill was read the second time on the 20th November.

The Public Order Bill in Committee.

WHEN the House of Commons went into Committee on the Public Order Bill on Monday, the Home Secretary moved an amendment to cl. 2, to provide that in any proceedings against a person charged with taking part in the control or management of a quasi-military organisation, it should be a defence to that charge that he neither consented to nor connived at the organisation, training or equipment of members or adherents of the association. Sometimes, Sir JOHN SIMON explained, in law, those in control of associations were made liable for the misdeeds in all circumstances of those coming under their authority, but, in the case under discussion, since the misdeed might, perhaps, be committed by adherents over whom the managers of the association had no control at all, it seemed to be just that, if the person who was charged could show that he did not consent to it or wink at it, he should be allowed to do so. The burden in such cases would, it was intimated, be on the accused to prove that he did not consent to or connive at the offence. The amendment was agreed to. An amendment to delete the provision that in any criminal or civil proceedings under cl. 2, proof of things done or of words written, spoken, or published (whether or not in the presence of any party to the proceedings) by persons appearing to be members or adherents of an association should, unless it were proved that they were not members or adherents thereof, be admissible as evidence of the purposes for which, or the manner in which, members or adherents were organised, or trained or equipped, was withdrawn on an undertaking being given to confer with the Home Secretary to see whether, before the Report stage, effect could be given to suggestions which had been made with a view to meeting criticisms. Further amendments which were accepted provide for the deletion from the foregoing clause of " persons appearing to be " and " unless it is proved that those persons were not members or adherents thereof," and for the addition defining an adherent as one who acts in co-operation with an association or with its members as such, or whose support is accepted by it.

The Trunk Roads Bill.

WE have already indicated in outline the main provisions of the Trunk Roads Bill, which was read a second time in the House of Commons on 19th November, and, while it is not proposed to repeat what has been noted in regard to the contents of the Bill, it is thought that some further indication of its scope and character as disclosed by the speech of the Minister of Transport in the House may be given. Mr. HORE-BELISHA recalled that hitherto the management of the roads in Great Britain had throughout history been local in character. While, with the expansion of the geographical range of mobility, the tendency had been to widen the areas of administration, it still remained the case that until the introduction of this Bill no proposal had been formally brought to Parliament to establish a Department of State as a central highway authority. He explained why the roads in London and the county boroughs were excluded and emphasised with reference to the title of the Bill that the roads it is proposed to take over are those for " through "—not necessarily dense—traffic. The integrity of the existing system had been preserved and, in order that the Minister might be free from any pressure to depart from the principle on which the roads to be taken over had been selected, it had been left to the formal procedure of an Act of Parliament to be invoked before any addition could be made. The Minister of Transport emphasised the fact that the Bill makes no change in the highway law contained in a number of Local Government, Public Health, Road Traffic and other Acts, but only a change, in regard to the roads concerned, in the highway authority. Consolidation, he said, would soon be required, and that would be the time to clarify the law and remove some of the present anomalies. He stated, moreover, that it was their intention to enter into agency agreements with the councils whose skill and experience were available to do most of the work required. Functions under powers conferred by the Restriction of Ribbon Development Act, 1935, whether concerned with the protection of the roads or the preservation of amenities, would remain with the local authorities, but the Minister would reimburse such authorities for any compensation payable as a result of conditions that he had required.

Expenditure.

THEY were not, the Minister said, buying these roads. They were, in relief of the local authorities, taking over all obligations for future expenditure upon them. It was impossible, he intimated, to say with accuracy the measure of the liability from which the local authorities were to be freed and which the State would assume as a result of the change. The present cost of maintenance and minor improvements on trunk roads was over £1,500,000 a year, of which 60 per cent. had hitherto been provided from the Road Fund. The State would henceforth pay the whole. At present road improvement schemes, estimated to cost over £6,000,000, had been approved for grant, and schemes costing another £12,000,000 had been submitted. All improvement schemes would henceforth be at the charge of the State. What further sums would have to be expended would depend on what their survey of the routes disclosed. These, it was indicated, might be considerable, for they intended to modernise them. The Minister alluded to the inconvenience, irritation, and even danger occasioned by existing discrepancies in highway practice, and outlined some of the main principles which would be adopted in the trunks roads under the direct control of the Ministry. These, he said, must be designed so as to permit the utmost fluidity of traffic consistent with the requirements of public safety. Carriageways must be of such a width as would allow for the maximum number of vehicles likely to come upon them, and they should be sub-divided so that traffic proceeding in one direction should do so on its own track. They should be kept free of obstruction due to standing vehicles and, where development was proceeding, means of entrance to the main route should be strictly controlled. Other *desiderata* mentioned were proper footpaths, cycle tracks, superelevation of curves, road junction lay-outs designed to give ample vision, fly-over junctions where the traffic was heavy, a non-skid and uniform surface, the avoidance by main routes of built-up areas, standard siting of traffic signs, uniform lighting and the preservating of countryside amenities.

British Records Association Conference.

BRIEF reference may be made here to the fourth annual conference of the British Records Association, which was held at Burlington House on the 16th November. LORD WRIGHT, the President of the Association, alluded to the increase in membership during the past year, over forty more institutions and nearly seventy more members having joined. The learned Master of the Rolls intimated that increasing membership during the next few years might well make the association self-supporting, and made reference to the varied activities of the Association and the wide-spread interests of archivists as demonstrated by the survey given in the "Year's Work in the Archives." In the course of a discussion on "Manorial records, their interest and their preservation," Miss JOAN WAKE, Hon. Secretary of the Northamptonshire Record Society, drew attention to the illuminating character of the bailiffs' accounts and to the light on social and economic conditions shed by the court and manorial rolls. Among reasons given for setting a high value on the later rolls was that they showed how very gradually and sporadically what might be called the police court work of lords of manors was taken over by the Justices of the Peace. Since the passing of the Law of Property Act, 1922, a list of over 23,000 manors had been compiled at the Public Record Office, and over 10,000 of these records were known to exist. Few, if any, sets of manorial records were complete or even continuous over a long period, and the speaker was certain that there was still an enormous quantity of old manorial documents to be found in muniment rooms, lumber rooms and cellars, as well as in the upper chambers and subterranean vaults of solicitors' offices. Professor F. M. STENTON, in the course of a discussion on "The classes of documents published by local bodies: some desiderata," deprecated the distinction commonly drawn between local and general interest and pleaded for more public records bearing on the jurisdiction exercised by the ecclesiastical courts between the sixteenth and nineteenth centuries. There was not, he said, a single cathedral church in England of the old foundation of which the records had been edited in the full Latin text according to modern methods. Publication by the Association should, it was urged, be such that there should be no future need of recourse to originals. This meant full Latin texts and in all special cases facsimilies. The proceedings at the conference are reported on p. 959 of the present issue.

Scottish Crime Statistics.

STATISTICS relating to crime in Scotland for 1935, which were published about a week ago (H.M. Stationery Office, price 1s. 3d. net), show that the number of persons proceeded against was 117,737, compared with 104,054 in the preceding year. This increase is, however, largely accounted for by the rise in the number proceeded against for offences in connection with motor vehicles for which disregard of the thirty-miles-an-hour speed limit is doubtless in some degree responsible. Figures for 1934 and 1935 were respectively 16,284 and 25,494. Other increases in the number of persons charged are recorded in the cases of crimes against the person (by seven), of cruel and unnatural treatment of children (by forty-eight), of housebreaking (by 207), and of theft (by 176). There was, however, a decrease of 152 in the number charged with falsehood, fraud and wilful imposition. Readers desiring further particulars must be referred to the publication itself, which is obtainable as already indicated, or through any bookseller.

County Court Fees: New Order.

ATTENTION is drawn to the County Court Fees Order, 1936 (S.R. & O., 1936, No. 1160/L.27), which has been made in pursuance of powers and authorities vested in the Lord Chancellor and the Treasury by the County Courts Act, 1934, s. 167, the Public Offices Fees Act, 1879, s. 2, and the Companies Act, 1929, s. 305. The fees payable in respect of various kinds of proceeding are set out in a comparatively lengthy schedule divided into a number of sections. The first of these is headed "General," the last "Miscellaneous." Other sections relate to actions and matters transferred to a county court, workmen's compensation, actions and matters under certain specified Acts (the Agricultural Holdings Act, 1923, the Allotments Act, 1922, the Bills of Sale Act (1878) Amendment Act, 1882, the Companies Act, 1929, the Deeds of Arrangement Act, 1914, the Inferior Courts Judgments Extension Act, 1882, the Landlord and Tenant Act, 1927, the Law of Distress Amendment Act, 1888, the Local Government Act, 1933, and the Rent and Mortgage Interest Restrictions Acts, 1920 to 1933), taxation, and enforcement of judgments. Fees prescribed by the Order are payable by the party at whose instance the proceeding is taken, except in the case of a fee for keeping possession of, appraising or selling a ship or goods, or where a direction to the contrary is contained in the schedule. Poor persons will be required to pay the fee prescribed on transfer or payment of money into court for administration for the benefit of an infant or a person of unsound mind or a widow under s. 164 of the County Courts Act, 1934, and, where they have applied for a jury, to pay or deposit any sum required for jurors' fees; otherwise, where a party is proceeding in a county court under the Poor Persons Rules, or is seeking to enforce by a judgment summons in a county court a judgment or order obtained by him under such Rules, whether in the High Court or in a county court, a fee is not payable. The Order, which is published by H.M. Stationery Office, at 7d. net, comes into force on 1st January, 1937.

Recent Decisions.

IN *Farnham* v. *Farnham otherwise Daniels* (*The Times*, 21st November), a decree of nullity of marriage was granted on the husband's petition on the ground of the respondent's incapacity. Nearly two years after the parties separated the respondent had given birth to a child, and LANGTON, J., held that he was not precluded by *Russell* v. *Russell* [1924] A.C. 647, from admitting evidence that the marriage had never been consummated because the respondent was incapable with regard to the petitioner. The learned judge intimated that there was no recorded instance of the application to a nullity suit of the rule in that case, the rule was arrived at with a full consciousness of the practice in nullity suits, and with a plain belief on the part of those who declared it that they were not departing from the practice or attempting to change or minimise the right of parties to such suits.

In *The Kafiristan* (*The Times*, 13th November), it was held that the fact that the owners of a ship which rendered salvage services were also the owners of one of the two ships involved in the collision for which both were to blame disentitled them to claim a salvage award in respect of those services.

IN *Peters and Another* v. *Willment Bros.* (*The Times*, 24th November) LUXMOORE, J., intimated that he was satisfied on the evidence that the plaintiffs were suffering serious annoyance from noise and granted an injunction restraining the defendants or their servants from using pneumatic drills or other noisy instruments on the site of the Adelphi, London, so as to cause a nuisance. The terms of the injunction did not cover the use of pneumatic or other drills for the purpose of drilling holes for the reception of hydraulic cartridges for the splitting of the concrete foundations.

In *ex parte the Attorney-General* (*The Times*, 24th November) the court granted, on the motion of the Attorney-General, a rule *nisi* for the removal to the Central Criminal Court of the second trial of certain persons on charges arising out of a fire at the Royal Air Force depot, near Pwllheli. At the previous hearing at the Carnarvon Assizes the jury disagreed. The motion for the rule was under s. 3 of the Central Criminal Court Act, 1856, which provides for the removal of a trial where such appears to the King's Bench Division to be expedient in the interests of justice.

The New County Court Rules.

(*Continued from p.* 925.)

Interpleader Proceedings under Executions.

An application by the registrar to the judge for an order for payment by the execution creditor of fees and expenses incurred before the receipt by the registrar of notice by the execution creditor of an admission of title or request for withdrawal will have to be made on one clear day's notice to the execution creditor (Ord. XXVIII, r. 3 (2)), instead of three as required by the old Ord. XXVII, r. 1 (2).

This period of three days' notice is also reduced to one clear day's notice to the claimant in the case of an application by the registrar to the judge for an order protecting him from any action in respect of the seizure and possession of the goods (Ord. XXVIII, r. 4, and old Ord. XXVII, r. 2).

Interpleader summonses will have to be served at least fourteen clear days before the return day (as in the case of an ordinary summons, Ord. VIII, r. 8), Ord. XXVIII, r. 6, instead of at least ten clear days before the return day (old Ord. XXVII, r. 4 and old Ord. VII, r. 9).

An application by an execution creditor to the registrar for an order directing a claimant residing outside England and Wales to give security for costs will have to be made on at least one clear day's notice in writing (Ord. XXVIII, r. 7), instead of two as required by the old Ord. XII, r. 11 (1).

The period within which the claimant must file his particulars has been altered from "five clear days at least before the return day" to "within eight days of the service of the summons on him, inclusive of the day of service" (Ord. XXVIII, r. 8, and old Ord. XXVII, r. 5).

The judge will have a discretion to hear the proceedings in every case where particulars have not been filed, and not merely where no consent has been reached by the parties as under the old Ord. XXVII, r. 5 (Ord. XXVIII, r. 8).

The period during which the execution creditor may give notice in writing to the registrar of a claim for damages arising out of the execution is altered from "five clear days at least before the return day" to "within eight days of the service of the summons on him, inclusive of the day of service."

Interpleader Proceedings other than under Executions.

The old Ord. XXVII, r. 15 (1), permits a defendant in an action brought by the assignee of a debt or chose in action to interplead where he has had notice that the assignment is disputed or that there are opposing or conflicting claims, or where in an action for a debt, chose in action, money, goods or chattels he has notice of opposing or conflicting claims. The new Ord. XXVIII, r. 16, permits any person to interplead who is under a liability for any debt or other thing in action, money or goods, for or in respect of which he is or expects to be sued by two or more persons (called the claimants) making adverse claims thereto.

The application, it will be seen, can be made even though an action has not been commenced against the applicant, and must be made either in the court where he is being sued, or if he is not being sued, then in the court in which he might be sued (Ord. XXVIII, r. 16 (2)).

The applicant's affidavit will have to contain, in addition to the matters required by the old Ord. XXVII, r. 15 (2), a statement that the subject-matter does not exceed in value the sum of £100. Where the applicant is a defendant the affidavit will have to be filed within eight days of the service of a summons on him, inclusive of the day of service, instead of five days as provided by the old Ord. XXVII, r. 15 (1).

The registrar may, before or after the issue of the interpleader summons, direct the applicant to bring the subject-matter into court, or to dispose of it in such manner as the registrar thinks fit, to abide the order of the court (Ord. XXVIII, r. 19). Under the old Ord. XXVII, r. 15 (6), it was provided that the defendant "may" pay the subject-matter into court to abide its decision.

The same alterations are made with regard to the time for service of an interpleader summons, and filing particulars of claim or the fact of no claim, as in interpleader under executions, and the judge will have a discretion to hear the proceedings where no particulars are filed, whether or no the parties consent to this (Ord. XXVIII, r. 21).

Accounts and Inquiries in Equity Proceedings.

No time is provided under the new rules for the registrar to issue a notice to the parties to attend on the day and at the place for the hearing of the accounts and inquiries (Ord. XXIX, r. 5). The old Ord. XXIV, r. 2, required him to do so by summons, returnable not less than seven days from the date of the order for accounts or inquiries. Where advertisements are ordered, the return day under the old Ord. XXIV, r. 2, must be not less than twenty-one days after the date of the order. The new rule mentions no period.

The date for adjudicating claims of creditors or persons beneficially interested in the subject-matter of the proceedings will be fixed by the advertisement for creditors under the new Ord. XXIX, r. 7 (1), instead of at the time of directing the advertisements (old Ord. XXIX, r. 9).

The procedure after the registrar has prepared his certificate is altered to some extent in the new rules. Under Ord. XXIX, r. 18, the registrar must then fix a day for the further consideration of the proceedings and give notice to all parties and the certificate must lie in the office for inspection for seven days from the date of the notice. Parties interested or affected may apply to the judge on notice (not less than one clear day—Ord. XIII, r. 1) for an order discharging or varying the certificate, Ord. XXIX, r. 19 (1). The procedure under the old rule is for the registrar to present the certificate to the judge (Ord. XXIV, r. 27), having prepared it seven days before the date fixed for presentation. Applications to vary or discharge the certificate under the old Ord. XXIV, r. 33, are to be made to the court on the day appointed for presentation (presumably without notice, old Ord. XXIV, r. 33). The power of the registrar to apply to the judge for further directions under the old Ord. XXIV, r. 37, does not appear in the new rules.

Receivers.

Every receiver will be bound to deliver at the court office for examination by the registrar such accounts at such time or times as the registrar directs (Ord. XXX, r. 4 (1)). The old Ord. XVI, r. 4, provides that the receiver must submit his accounts to the registrar and the registrar must audit them as soon as conveniently may be after the realisation of the assets, but that the registrar might require the receiver to produce his accounts for audit before complete realisation at any time on giving seven days' notice (old Ord. XIII, rr. 4 and 6).

The receiver will have seven days from the date of the registrar's certificate within which to pay any balance certified to be due from him into court (Ord. XXX, r. 8). The direction to charge the receiver with interest at 5 per cent. per annum on any unpaid balance which the judge may give where a receiver has failed to deliver or pass an account or make a payment certified to be due from him, applies now only where the balance has remained in the receiver's hands for more than seven days from the date on which it was certified to be due. Under the old rules payment over of a balance found due is obligatory immediately after the post-realisation audit.

Assessors.

A party desiring an assessor to be summoned to assist the judge will have to file his application at least ten clear days before the day fixed for hearing, instead of at least six clear days as required by the old Ord. XXI, r. 7 (Ord. XXXI, r. 6). The Form in which the application must be made (Form 247), does not provide for the mention of the name of any assessor nor is there any provision in the new rule

enabling the other party to consent to a named assessor as there is in the old Ord. XXI, r. 7.

If, however, the judge grants the application the registrar will have to give notice to the parties in Form 248, which names an assessor, and if a party objects to the person proposed to be summoned as assessor, he must, within two days of the service on him of the notice in Form 248, give notice to the registry of his objection, stating the grounds thereof, and the registrar will then fix a date for hearing the objection (Ord. XXXI, r. 7 (2)). The old Ord. XXI, r. 10, provided that notification of the non-acceptance of the appointment of a proposed assessor must be given to the registrar forthwith after receipt of the notice of the appointment.

New Trial and Setting Aside.

The judge will have, as before, power to order a new trial in every case on such terms as he deems reasonable, but it is further provided by the new rules that where, in a default action, judgment is entered in default of delivery of a defence or counter-claim, and the defendant satisfactorily explains his default and satisfies the court that he has a defence or counter-claim which ought to be heard, the court may, on application made on notice, set aside the judgment and execution thereon, or, where only a counter-claim remains to be tried, stay execution on the judgment pending the trial of the counter-claim. The court may also stay execution on the judgment pending the hearing of the application (Ord. XXXVII, r. 3).

The time for filing and giving the opposite party notice of an application for a new trial, where it is not made on the day of the trial, is reduced from at least seven clear days before the holding of the court at which it is to be made to at least six clear days (Ord. XXXVII. r. 1 (3)), and old Ord. XXXI, r. 1.

In applications to the judge to set aside any judgment or final order of a registrar and any execution thereon, notice, under the new rules, will have to be served on the opposite party within three days of the judgment or order unless made on the day when the judgment or order was given (Ord. XXXVII, r. 5).

(*To be concluded.*)

Summary Trial with Knowledge of Previous Convictions.

THE recent decisions of *R.* v. *Sheridan* (1936), 80 SOL. J. 535, and *R.* v. *Grant* (1936), 80 SOL. J. 572, decided on 29th June and 13th July by the Court of Criminal Appeal, and commented upon at pp. 523, 563 and 622, *ante*, raise in an acute form the difficult question of the duties of a court of summary jurisdiction when it is considering whether to deal with an indictable offence summarily under s. 24 of the Criminal Justice Act, 1925.

In *R.* v. *Sheridan* the justices decided to deal with the offence summarily, and, having heard the evidence, found the prisoner guilty ; they were then told of the prisoner's previous convictions, changed their minds, and committed the prisoner for trial. In *R.* v. *Grant* the Metropolitan magistrate decided to deal with the offence summarily ; the prisoner pleaded guilty, and the magistrate, having heard the previous convictions, changed his mind and committed the prisoner for trial. In both cases at the trial the plea of *autrefois convict* was raised, but the prisoners were convicted, and in both cases the Court of Criminal Appeal quashed the conviction on the ground that what had taken place in the court of summary jurisdiction amounted to a conviction, and the plea of *autrefois convict* was accordingly good.

It follows from these decisions that unless the justices, in which term is, of course, included a metropolitan magistrate, are prepared to take the risk after they decide to deal with a case summarily, that, if circumstances arise which lead them to change their view and to decide to commit, they may be precluded from giving effect to this decision, unless they are prepared to take this risk—they must call for an accused's record before they decide to deal with a case summarily.

The reason is this : under s. 24, sub-s. (2), of the Criminal Justice Act, 1925, when the court becomes satisfied that it is expedient to deal with the case summarily, it must cause the charge to be reduced into writing and read to the accused ; the accused must be asked if he desires to be tried by a jury, or consents to be dealt with summarily, and the court may explain the meaning of this if it thinks it desirable ; and if the accused consents to be dealt with summarily, he must be asked : " Do you plead guilty or not guilty ? " If the accused pleads guilty under *R.* v. *Grant*, the court cannot decide to commit him, whatever his record.

It is possible that the accused could plead guilty immediately he has consented to be tried summarily, but, apart from this possibility, the justices are not in danger of forfeiting their power to commit until they have complied with the procedure in sub-s. (2). On the other hand, at any stage of that procedure they might call for the accused's record, e.g., after reducing the charge into writing, they might ask if anything were known against the accused. It is, however, always dangerous not to follow the ritual of sub-s. (2) strictly, so that it is submitted that the wisest course is to hear the accused's record before deciding to deal with the case summarily, and indeed submitted with confidence, for in *R.* v. *Sheridan*, Humphreys, J., in giving the judgment of the court, is reported in [1936] W.N., p. 236, as saying : " A consideration of s. 24, sub-s. (1), of the Criminal Justice Act, 1925, makes it plain that justices are now required as a preliminary to any decision as to dealing summarily with an indictable offence to consider certain matters specified in the section, one of them being the character and antecedents of the accused, to enable them to decide whether they ought to deal with the case summarily."

Difficulty is, however, created by certain dicta of Avory, J., in *R.* v. *Hertfordshire Justices* [1911] 1 K.B. 612, a case which decided that where under s. 12 of the Summary Jurisdiction Act, 1879, which has been replaced with certain alterations by s. 24 of the Criminal Justice Act, 1925, the justices decided to deal with a case summarily, and subsequently, having heard the evidence for the defence before deciding to convict, changed their minds and committed the accused for trial at quarter sessions ; the latter court had jurisdiction to deal with the case. In that case Avory, J., said, at [1911] 1 K.B. 624 : " It would obviously be most improper for the justices to inquire into the character and antecedents of the person charged until, after having heard all the evidence, they have determined to convict him ; if they did so, and then proceeded to convict, the defendant could come to this court and get the conviction quashed on the ground that the justices had wrongly admitted evidence as to character before conviction."

Although s. 24 of the 1925 Act extends the matters for which the court is to have regard before deciding to deal with a case summarily, under both that section and s. 12 of the 1879 Act the court is to have regard " to the character and antecedents of the accused," so that it is difficult to understand why, in the note to these words in s. 24, " Stone's Justices Manual " should say that they overrule Avory, J.'s opinion.*

However this may be, if Avory, J.'s dicta are correct, a court of summary jurisdiction dealing with an indictable offence within Sched. II of the 1925 Act must hear the evidence of both sides, decide to convict, then decide to deal with the case summarily, go through procedure of sub-s. (2) of s. 24, and if the accused pleads not guilty, immediately find him guilty. Of course, there is nothing to prevent the court continuing the hearing, but if they have made up their minds to convict this would be a farce. If they do not make up their

* See 1936, Stone, page 154, note (f).

minds to convict before deciding to deal with the case summarily, according to Avory, J., they ought not to hear about the character and antecedents of the accused; but if they do not hear about these, they go in the face of Humphrey, J.'s dictum and also run the risk mentioned above of a plea of guilty preventing them from committing, if they change their minds on hearing the accused's record.

If the court adopts the course of convicting immediately after a plea of guilty, it is acting contrary to s. 27, sub-s. (2), of the Summary Jurisdiction Act, 1879, whereby it is provided that, after the court decides to deal with a case summarily, the witnesses for the prosecution shall, if the defendant require it, be recalled for cross-examination. Further, during the hearing of the offence as an indictable one, the prisoner may not have given or called evidence; after the decision of the court to deal with the case summarily he may desire to do so; and if this were prevented the conviction would certainly be quashed. It is therefore submitted that such a course is quite inadmissible.

Now in view of the decision in *R.* v. *Hertfordshire Justices*, Avory, J.s' observations quoted above were unnecessary thereto and therefore *obiter*. There is nothing in the provisions of s. 12 of the 1879 Act or of s. 24 of the 1925 Act which indicate or connote that "the character and antecedents" of the accused must be considered after the justices decided to convict. Therefore Avory, J., introduced this as a general principle of criminal law, as no doubt it is. There are, and were at the time of the decision, statutory provisions which in terms enact that a previous conviction or previous convictions must be considered before the tribunal convicts, e.g., Prevention of Crimes Act, 1871, s. 7, as interpreted in *R.* v. *Penfold* [1902] 1 K.B. 547, and the Vagrancy Act, 1824, s. 4, as amended by the Prevention of Crimes Act, 1871, s. 15. This does not mean that where a statute does not in terms so enact such a provision may be readily implied. It may not. What is submitted is that in all the circumstances, in view of the decisions of *R.* v. *Sheridan* and *R.* v. *Grant*, Avory, J.'s, observations can no longer be considered to be law.

The course which, it is submitted, the justices ought to adopt is: as soon as it appears that, in accordance with the provisions of s. 25, there are *primâ facie* grounds for dealing with a case summarily, even if this appears as early as the opening of the prosecution, they should at once enquire into the character and antecedents of the accused. If, on making this enquiry, the case appears sufficiently serious for them to commit, no harm is done; if the accused's record is a clean one, or if the black marks upon it are not too black, the justices will then decide to deal with the case summarily, and it should not be beyond their power to prevent the moderately bad record of the accused from influencing their decision as to his guilt. Nevertheless in all cases in the future dealt with summarily under the 1925 Act, it is submitted, the court will know the previous record of the prisoner if it is known to the prosecution.

Company Law and Practice.

Calls by a Liquidator.—I.

The primary duty of the liquidator in the winding up of a company is to ascertain and pay the company's liabilities, and to do this he must proceed to collect all moneys owing to the company to provide a fund to meet the liabilities and the costs of the winding up. One of the methods to which he may have recourse is the making and enforcing of calls on the members of the company in respect of any shares held by them which have not been paid up in full. Ordinarily, of course, the power to make calls is vested in the directors, but from the commencement of the winding up this power ceases and is by statute transferred to the court or the liquidator with the sanction of the court, or of his committee of inspection. The relevant section of the Act of 1929 is s. 206, which provides as follows: "(1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made. (2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call." The liquidator's position is dealt with in s. 220 and by r. 84 of the Companies (Winding-up) Rules, 1929. In passing, we may note that if a committee of inspection refuses to sanction the making of a call the liquidator may nevertheless apply to the court and the court may in a proper case overrule the committee of inspection and authorise the call: *In re North Eastern Insurance Society* [1915] W.N. 210.

These statutory powers in the winding up supersede all other powers of making calls. This point is well illustrated by the case of *Fowler* v. *Broad's Patent Night Light Company* [1893] 1 Ch. 724, where a company which had previously charged its uncalled capital was ordered by the court to be wound up. Before the order for winding up was made a receiver and manager had been appointed in a debenture-holders' action, and the receiver then applied to the Official Receiver, as the provisional liquidator of the company, to make a call. This the Official Receiver refused to do and the receiver then took out a summons in the debenture-holders' action that the company by the Official Receiver should make a call. Vaughan Williams, J., refused to make the order on the ground that he had no jurisdiction to make it in a debenture-holders' action. "I am clear," he said, "that the moment you have got a liquidation the calling power is limited to the statutory power of making calls in a winding up," and he further pointed out that the proper procedure in the circumstances was an application in the winding up in which the receiver for the debenture-holders would be entitled to the assistance of the liquidator. This case shows, I think, very clearly, the limits placed on the calling power by an order for winding up, even on the liquidator himself.

Before the liquidator can make a call he must not only get the sanction of the court or of the committee of inspection but he must also decide who are the persons on whom he can call, and he must give them notice of his intention. The first step is to settle the lists of contributories. There are two classes, and accordingly, there is an "A" list and a "B" list. The "A" list contains the names of all the persons who appear from the books of the company to be members of the company at the date of the commencement of the winding up, while the "B" list contains the names of all persons who were members of the company but ceased to be so within one year, before that date. This is not the place to go into the differences in the positions of "A" and "B" contributories, and we must content ourselves with the observation that the "B" contributories are not called upon to contribute until the "A" contributories have been tried and found wanting. Having settled his lists, the liquidator then makes the call by a declaration under his hand, which—if the winding up is a compulsory winding up—must be filed with the registrar or—if the winding up is a voluntary one—will be entered by him in the minutes of his proceedings. The next step is to give notice to the contributories, and here again there is a difference between a compulsory and a voluntary winding up. In the case of a compulsory winding up an aggrieved contributory who objects to his inclusion in the list as settled by the liquidator must appeal within twenty-one days from the service of the notice upon him (though the court may extend the time for an appeal), and if he fails to do so the list becomes conclusive evidence of

his liability. On the other hand, in a voluntary winding up, the list is only *primâ facie* evidence, and it is still open to the contributory to show that his name has been wrongfully included when proceedings to enforce the call are taken against him.

The amount of the call is a matter for the discretion of the liquidator, and he need not limit himself to a call which will, if duly paid in full by all liable, just bring in enough to enable him to pay the costs of the winding up and the debts of the company. He need not wait until claims made against the company are established as debts, as it is his duty to provide a fund for paying the debts whenever they may be established : see *In re Contract Corporation*, L.R. 2 Ch. 95. He ought not to postpone calling up the full amount which the contributories are liable to pay if it is reasonably clear that the full amount will be required for the purposes of the liquidation, and sub-s. (2) of s. 206 of the Companies Act (quoted above) expressly provides that the probability of some contributories not paying may be taken into consideration in determining the amount of the call. Moreover, the payment of the company's liabilities and the costs of the winding up is not the only purpose for which a call may be made. After the payment of all the debts and expenses the rights of the contributories among themselves may still require regulation, as, for instance, when some have paid up the whole amount due on the shares held by them and others have only paid up a part. Thus, in *In re Anglo-Continental Corporation of Western Australia* [1898] 1 Ch. 327, after paying the debts and expenses the liquidator had in his hands a sufficiency of assets to repay to the members of the company part of their capital. The articles of the company provided that if in a winding up the surplus assets should be insufficient to repay the whole of the capital, the losses should be borne by the members as nearly as possible in proportion to the capital paid, or which ought to have been paid, on the shares held by them respectively at the commencement of the winding up. The issued share capital consisted of 125,000 shares of £1 each, of which 5s. had been paid up on 100,000 and the full sum of £1 on the remaining 25,000. On a summons by the liquidator to determine the proper application of the surplus assets it was held that a call (actual or on account) of 3s. per share must be made on the holders of 100,000 shares so as to make these shares paid up to the extent of 8s. per share ; that the amount so called must be applied in repayment of 12s. per share to the holders of the 25,000 shares, making their shares also paid up to the extent of 8s. per share, and that the assets would then be divisible among the holders of the whole of the 125,000 shares *pro rata*. See also *Ex parte Maude*, L.R. 6 Ch. 51, and *In re Kinatan (Borneo) Rubber, Ltd.*, [1923] 1 Ch. 124. In the latter case, on the construction of a slightly different article, it was held that the surplus assets ought to be distributed among the members in proportion to the amounts actually paid up, or which ought to have been paid up, before the commencement of the winding up on the shares held by such members, without calling up any uncalled capital and exclusive of such uncalled capital.

In a further article I propose to deal with the enforcement of the call by the liquidator and a few other points on this subject.

[*To be continued.*]

The following awards by the Inner Temple are announced : Entrance Scholarships of £210 a year for three years, Mr. A. L. Armitage, Mr. P. S. James and Mr. M. V. Osmond ; Yarborough Anderson Scholarships of £100 a year for three years : Mr. G. C. Dare and Miss M. L. Williams ; Profumo Prizes of £105 : Mr. V. K. Wolff and Mr. R. H. T. Whitty ; Paul Methven Prizes of £75 : Mr. W. Nathan and Mr. M. Abrahams ; Jardine Studentship of £40 : Mr. D. Lloyd ; Pupil Studentships : Mr. E. I. Goulding, Miss M. D. Chorlton, Mr. A. C. Bulger, Mr. R. H. T. Whitty, Mr. L. Brett and Mr. P. E. Lewis.

A Conveyancer's Diary.

The Automatic Vesting of Leaseholds under the Transitional Provisions of the L.P.A.

Last week I wrote upon the subject of the use of statutory declarations offered in support of the title of a vendor and the result of a review of the decisions seem to me to be that, speaking generally, a purchaser might have forced upon him a declaration in proof of a negative statement in the abstract but not to contradict the correctness of a positive statement appearing in it. This leads me to a rather interesting point which I have known to be raised recently.

The point is in connection with the automatic vesting of leaseholds under Part II of the 1st Sched. to the L.P.A., 1925. Clause 3 of that Part of the schedule provides—

> "When immediately after the commencement of this Act any person is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall by virtue of this Part of this Schedule, vest in manner hereinafter provided."

Then the effect of cl. 6 (*d*) is that the legal estate in leaseholds held in trust for some person absolutely is to vest in him, but subject to any mortgage term subsisting or created by the Act.

The question which arises here is when is a person who has become entitled in equity to leasehold property vested in trustees or executors "entitled" to call for an assignment ? It may be that the trustees or executors have rendered themselves liable for breaches of covenant and cannot be compelled to assign without an indemnity and so until the indemnity has been given the automatic vesting will not operate.

There is, however, some difficulty in saying what is a sufficient indemnity. Take the case of a house which is held upon what we usually call a "fully repairing lease." There must always be some breach of the covenant to repair for however short a time the lease has run and it may be that (the breach being a continuing one) the liability upon the trustees or executors is a heavy one. The mere covenant for indemnity of the person entitled in equity may be of little or no value. He may be a "man of straw," whose covenant would be no protection.

The law as it stood before 1926 was laid down by Lord Cozens-Hardy, M.R., in *St. Thomas's Hospital* v. *Richardson* [1910] 1 K.B. 271, at pp. 275–276. His lordship said "Now it is necessary to consider carefully what is the position of a trustee A, in whom a leasehold term is vested as assignee, his sole *cestui que* trust being B. If all rent has been paid and all liabilities for breach of covenant have been satisfied up to date, A is bound on request to assign to B and he must rest content with the ordinary covenant by B contained in such assignment. If, however, there is rent in arrear for which the lessor might sue A, or if there are breaches of covenant for which the lessor might sue A, B cannot require an assignment until those liabilities have been got rid of. And it is irrelevant to urge that the lessor has not sued, or that A has not paid." The learned Master of the Rolls was there dealing with a case where leaseholds were vested in a trustee in bankruptcy of a trustee and went on to say that the bankrupt trustee had a lien on the property for any rent in arrear or breaches of covenant, and added "If so, it seems to me impossible to doubt that the trustee" (in bankruptcy) "as representing the bankrupt's estate had a charge or lien upon the leasehold property precisely similar to that which the defendant before his bankruptcy would have had in respect of liabilities presently enforceable."

I must confess that I am unable to follow this. In the case in question there were leaseholds which were held upon onerous covenants to repair, etc., and were vested in the

bankrupt in trust for his wife. The covenants to repair could not have been "satisfied up to date" and I can find no previous authority for the statement that a trustee must be satisfied with the "ordinary covenant" by the *cestui que* trust. Nor do I understand what his lordship meant by "liabilities presently enforceable." Every breach of covenant is "presently enforceable" in damages, although a condition for re-entry or forfeiture on breach of it may not be.

I have cited this case because I have been referred to it as showing that, where before 1926 a trustee or executor had become liable for breaches of covenant (more especially a covenant to repair) there would in consequence of cl. 3 of Part. II of the First Schedule to the L.P.A., 1925, be an automatic vesting of the leaseholds in the person equitably entitled upon his giving a covenant to indemnify the trustee, even though that covenant might be valueless. I do not think that to be so. In fact I cannot see how there can ever have been an automatic vesting of leaseholds except in the very rare case where there were no covenants imposing a burden upon the lessee.

I may now turn to the relief given to personal representatives and trustees by s. 26 of the T.A., 1925, a consideration of which raises the question of the extent to which statutory declarations can be enforced upon a purchaser.

The wording of the section should be carefully considered :—

(1) Where a personal representative or trustee is liable as such for—

(*a*) any rent, covenant, or agreement reserved by or contained in any lease ; or

(*b*) any rent, covenant or agreement payable under or contained in any grant made in consideration of a rent-charge ; or

(*c*) any indemnity given in respect of any rent, covenant or agreement referred to in either of the foregoing paragraphs ;

satisfies all liabilities under the lease or grant which may have accrued, and been claimed up to the date of the conveyance hereinafter mentioned, and, where necessary sets apart any future claim that may be made in respect of any fixed and ascertained sum which the lessee or grantee agreed to lay out on the property demised or granted, although the period for laying out the same may not have arrived, then and in any such case the personal representative or trustee may convey the property demised or granted to a purchaser, legatee, devisee or other person entitled to call for a conveyance thereof.

Then the section goes on to enact in effect that upon such a conveyance being made the personal representative or trustee shall not be liable and may distribute the remainder of the estate.

I wish here to emphasise the words "liabilities . . . which may have accrued and been claimed."

I take it that if the decision in *Re Spollon and Long's Contract* [1936] 1 Ch. 713, is correct, the fact that there has been no claim in respect of breaches of covenant, being negative, can be proved by a statutory declaration by the personal representative or trustee, and that a purchaser would be obliged to accept that evidence. But it is doubtful whether this is so, for the personal representative or trustee would only be able to declare so far as his own knowledge goes, and there may have been changes in the chain of representation or the trusteeship. Moreover, the section does not say "been claimed against the personal representative or trustee," and there may have been a claim against a former representative or trustee or even against the deceased or the settlor of which the personal representative or trustee for the time being might be ignorant.

Mr. Robert Marshall, J.P., solicitor, of Dudley, and of Hagley, left £21,054, so far as can at present be ascertained, with net personalty, £16,569.

Landlord and Tenant Notebook.

The Small Tenements Recovery Act, 1838.

The scope of the Small Tenements Recovery Act, 1838, is limited, as regards landlord and tenant cases, to tenancies at a rent not exceeding £20 a year, and for a term not exceeding seven years. While no attempt has been made to enlarge its scope in regard to tenancies, the machinery of the Act has been made applicable to a number of other cases ; hence some knowledge of the salient features of the statute is desirable. Education authorities may recover possession of premises occupied by schoolmasters, the War Office may obtain possession of Crown land, county councils may recover allotments, and housing authorities may enforce clearance and demolition orders and will shortly be able to abate overcrowding by means of warrants obtainable with little trouble from courts of summary jurisdiction.

A tenancy at a rent not exceeding £20 a year means a tenancy at an ordinary monetary rent within that limit. It was held in *Re Richmond Justices* (1893), 10 T.L.R. 68, that the statute applied to a tenancy of the ground and top floors of a building the consideration for which was an undertaking to clean the rest of the premises (a chapel) and to pay the rates. The latter sometimes came to £28 for a year.

Proceedings may be taken either by the landlord or by his agent, i.e. either an agent regularly employed by him or an agent authorised in writing to act in the matter.

The first step is a notice in statutory form. The form is given in Sched. I of the Act. The notice recites the determination of the tenancy and advises the intention to apply to the local court of summary jurisdiction on the date specified for a warrant unless possession be given within seven days. There is not very much to fill in, but intelligence must be exercised and the body of the Act should be referred to. It must be remembered that the notice is not in the nature of a summons issued by the court, hence the place where the hearing will be held must be specified by the writer with particularity. In *Delaney* v. *Fox* (1856), 1 C.B. (N.S.) 166 (of which more later), it was held that "acting in and for the borough of Bradford in petty sessions assembled" did not satisfy the statute, Bradford being a large place and justices having the right to assemble anywhere they pleased in their division.

The notice is to be served in one of three ways : on the tenant personally, on someone on the premises, or, if no one can be found, by posting it on a conspicuous part of the premises. In the first two cases its contents must be explained.

The hearing, as regards evidence to be given, is much like that of any other possession case. For some unknown reason the Schedule contains a form, Form 2, presumably intended as a precedent for the record of the proceedings ; it is called a "complaint." But there is no reference to this matter in the body of the Act.

On the claim being established, the justices issue a warrant to constables authorising and commanding them to let the landlord or his agent into possession. Form 3 in the Schedule prescribes the form, but it is strange that there is again no reference to this form in any of the sections. At least twenty-one days must be given.

The legislature was apparently alive both to the possibility of injustice resulting from the abuse of this procedure, and to the possibility of injustice resulting from the exploiting of technicalities. It sought to provide for both eventualities by conferring, on the one hand, a special right to a stay of execution, on the tenant executing a bond, with two sureties, to bring an action for trespass, and on the other hand, by validating any proceeding which would be void merely for some irregularity or informality and limiting the aggrieved tenant to an action for special damage. It is a condition

of this protection that the landlord was entitled to possession when he applied for the warrant.

Provisions of this kind, designed to avoid trouble, sometimes occasion it. In *Delaney* v. *Fox*, cited above, litigation resulted from the omission in the notice of intention referred to. The plaintiff alleged that she had been unable to attend the hearing because she did not know where it was to be held; *primâ facie*, she was seriously wronged. But as the defendant was able to show that she would have had no defence if she had attended, it was held that she had suffered no special damage, and a demurrer was upheld.

Although the matter went no further than the County Court holden at Pontypool, the litigation reported as *Cable* v. *Myers* (1903), 115 L.T.N. 445, is of some interest in this connection. The case was the third and last round between two spirited opponents. The origin of it all was the sale of a cottage by the plaintiff to the defendant. The contract had been the subject matter of the first proceedings, which terminated in a decree for specific performance in favour of Mr. Myers, the purchaser. But Mr. Cable, who occupied the premises, refused to move out in spite of the decree. After a time, however, he acknowledged himself Mr. Myers' tenant and agreed to give up possession on a specified date. When he failed to carry out that agreement, Mr. Myers obtained a warrant under the Small Tenements Recovery Act, 1838, which was executed. The indefatigable Mr. Cable then discovered that the notice of intention to apply for the warrant had not been properly served; hence the action in the county court for trespass. The defence was that the insufficient service constituted a "mere irregularity or informality," but the learned judge acceded to the argument of counsel for the plaintiff, one J. Sankey, that the defendant, not having served the notice, was a trespasser, and that a trespass had been committed, the inadequate service being no mere irregularity. So the Parthian shot went home; but with all due respect, the argument does not seem too well founded. It is clear that the plaintiff could not have recovered possession of the premises which he had sold, been ordered to convey, agreed to deliver up.

Whether costs may be awarded by the justices was described as an "ever-recurring" question in an article which exhaustively reviewed the position in *The Justice of the Peace* for 14th March, 1896 (60 J.P. 163). Little has been heard of the question since, and it would seem that the view taken by the writer of the article, that there is no jurisdiction to award costs, has been adopted. Briefly, the arguments to the contrary were that the warrant was an order on complaint and therefore fell within the proposition laid down in *Morant* v. *Taylor* (1876), 1 Ex. D. 188, by which every kind of decision pronounced by justices in a civil matter is within the scope of s. 18 of the Summary Jurisdiction Act, 1848. The answer to which was that there was no summons issued by the court in these cases, and the issue of the warrant was not really the making of an order; it is directed, not to the defendant, but to the constable. At all events, one can say that the Act is not one which appears to contemplate the sort of case in which costs could be recovered if awarded. It is perhaps significant that neither arrears of rent nor mesne profits are provided for; the landlord must sue for these elsewhere if at all. As recently pointed out, presently the machinery of the Act will be available to local authorities exercising powers under the overcrowding provisions of the new Housing Act. When premises are let, the execution of the warrant involves the giving of possession not to the applicants, but to a third party; landlords, so far from being entitled to, will be liable for costs in these cases.

Mr. W. F. PUGSLEY, solicitor, of Tiverton, has been appointed to succeed his father, Mr. J. Follett Pugsley, as Town Clerk of Tiverton. Mr. W. F. Pugsley was admitted a solicitor in 1925.

Our County Court Letter.

RIGHTS OF FISHING.

IN *Hunt* v. *Whitehouse*, recently heard at Lichfield County Court, the claim was for damages for trespass, for loss of rent of a fishing pool and the cost of re-stocking it with trout, also for an injunction to restrain the defendant, her agents and workmen, from interfering with or fishing in the pool. The plaintiff's case was that he was the lessee of Brook End Mill, including the mill pool, which had been mainly used for fishing since 1932. From that year the fishing rights had been let, for £5 a year, but the tenant had refused to pay, as the fish had been taken out, from the defendant's side, in 1935 and 1936. The conveyance and lease of the mill included the banks of the pool, and a complaint was made in May, 1935, owing to the defendant bringing friends to fish. The plaintiff had spent £10 in cleaning out the pool, and surrounding it with barbed wire, but this did not stop the defendant's friends. The re-stocking of the pool with trout would cost £7 10s. a hundred. The defendant's case was that she had not fished in the pool herself, but had given two other people permission to do so. The action was not for a declaration of title, but was for trespass against a person who had never trespassed. His Honour Judge Ruegg, K.C., observed that the two people who had fished were neither the agents nor the workmen of the defendant. If she had no right to give permission, the two people ran a certain amount of risk. The plaintiff could have asked for an injunction against anyone fishing with the permission of the defendant, and, if the court held she could not give permission, an injunction would follow. As the wrong person had been sued, judgment was given for the defendant, with costs, no decision being given as to who had the right of fishing.

CLOTHES LINE AS ANNOYANCE.

IN a recent case at Worthing County Court (*Goring Park Estate Co., Ltd.* v. *Casswall and wife*) the claim was for damages and an injunction in respect of the breach of a covenant, contained in the conveyance to the defendants, whereby they had agreed not to do anything which might at any time be, or grow to be, an annoyance, nuisance, damage or disturbance to the vendors, or the owners and tenants of any other portion of the estate. The case for the plaintiffs was that washing had been hung out on every day of the week, including Saturdays and Sundays, to such an extent as to interfere with the amenities of the neighbourhood. The defendants were joint owners of their house, and their case was that they had a maid and a young baby. The latter had had a serious illness at Easter, and its washing had to be done every day, even on Sundays. If the plaintiffs desired to prevent washing, they should have inserted a specific restrictive covenant. Under a general covenant, such as the above, washing could only be an annoyance if carried on like a business. His Honour Judge Austin Jones found that washing had been hung out to an unreasonable extent, so that the display was an annoyance or nuisance to owners and tenants of other portions of the estate. An injunction was granted against the display of washing in the defendants' garden on Sundays, and also after 2 p.m. on Wednesdays, Thursdays, Fridays and Saturdays. There would be no restriction on Mondays and Tuesdays, and no award of damages or costs. The test of an annoyance was laid down by Lord Justice Bowen in *Tod-Heatley* v. *Benham* (1888), 40 Ch. D., at p. 98, viz.: "'Annoyance' is a wider term than nuisance, and if you find a thing which reasonably troubles the mind and pleasure, not of a fanciful person or of a skilled person who knows the truth, but of the ordinary sensible English inhabitant of a house—if you find there is anything which disturbs his reasonable peace of mind, that seems to me to be an annoyance, although it may not appear to amount to physical detriment to comfort."

To-day and Yesterday.

LEGAL CALENDAR.

23 NOVEMBER.—On the 23rd November, 1867, Allen, Gould and Larkin, the three Fenians convicted of the murder of Police Sergeant Brett, when the Manchester prison van was stopped and raided, were hanged at the New Bailey Gaol. A murky fog obscured the view of the 12,000 people gazing at the gallows on the walls. The city was guarded by infantry, cavalry and artillery, and in and about the prison itself were 500 soldiers, so great was the fear of an outbreak. The drop overhung the prison wall on the outside. Allen and Gould stood firmly on the fatal planks. Larkin fainted twice.

24 NOVEMBER.—On the 24th November, 1777, The Rev. John Horne Tooke was sentenced to a £200 fine and twelve months' imprisonment for his published reflections on the conduct of the English troops during the American War of Independence. The Attorney-General strongly urged that "the defendant has been convicted of an audacious, false and wicked libel, charging His Majesty's troops and Government with no less a crime than that of wilfully murdering the King's loyal and faithful subjects," and urged that "such audaciousness surely calls for the highest punishment."

25 NOVEMBER.—On the 25th November, 1830, Lord Brougham was sworn in as Lord Chancellor, an office which he held for just four years. That period he employed actively in sweeping away a host of sinecure places, and as a compensation for this diminution of patronage, he procured for his successors an addition of £1,000 to their retiring allowance. His extravagances of conduct, however, were such that he made many enemies and grievously displeased the King, both by taking the Great Seal with him across the Scottish Border and by an indiscreet political revelation to the press.

26 NOVEMBER.—On the 26th November, 1832, in the case of *The King* v. *Pease*, 2 L.J., M.C. 26, the railways won their first legal victory. The Stockton-on-Tees Railway ran near a highway, and an indictment was found against the proprietors, alleging that the locomotive engines "did emit great quantities of smoke and steam and make a great noise and by their appearance and noise did greatly alarm the horses of many of his late Majesty's liege subjects when travelling along the said highway." But Parke, J., held that, even so, the railway was within its statutory rights.

27 NOVEMBER.—On the 27th November, 1371, John de Cavendish was raised to the Bench as a Justice of the Common Pleas.

28 NOVEMBER.—On the 28th November, 1758, Dr. Shebbeare, the political writer, received sentence for his "Sixth Letter to the People of England." In this he showed "that the present grandeur of France and calamities of this nation are owing to the influence of Hanover on the councils of England." He was fined £5 and sentenced to stand in the pillory and to be imprisoned for three years, afterwards giving security for his good behaviour for seven years. By the connivance of the under-sheriff, his standing in the pillory was reduced to a farce, the boards not being fastened and a servant holding an umbrella over his head.

29 NOVEMBER.—On the 29th November, 1866, Sir William Bovill, the Solicitor-General, after holding that office for five months in Lord Derby's last administration, was appointed to succeed Sir William Erle as Chief Justice of the Common Pleas. Coleridge once declared that he envied him "his great and vigorous capacity, his remarkable command of the whole field of our great profession." He served for seven years, until his death.

THE WEEK'S PERSONALITY.

Although John de Cavendish, first a Justice of the Common Pleas and later Chief Justice of the King's Bench, was a great and an upright judge whose labours earned him a prominent place in the Year Books, very little is known about him personally except his tragic end and one "memorable" joke. As to the latter, it arose out of a discussion in court respecting a lady's age, and the judge shrewdly observed that: "Il n'ad nul home en Engleterre que puy adjudge a droit deins age on de plein age, car ascuns femes que sont de age de XXX ans voilent apperer d'age de XVIII ans." He met his death at the hands of the peasantry in revolt under Jack Straw, who raided his manor at Cavendish, which they plundered and burned. He was captured in a cottage nearby and carried by the mob to Bury St. Edmunds. There he was brought before a revolutionary tribunal in the market place and together with his friend John of Cambridge, prior of the abbey, was brutally murdered, a miserable end to ten years' faithful judicial service. Nothing in his career on the Bench justified the blind fury which did him to death. At the ensuing assizes, his successor, Tresilian, exacted terrible vengeance.

THE PATERNAL LEAD.

Mr. Eustace Fulton's appointment as Chairman of the County of London Sessions provides the latest example of a son carrying on the judicial eminence of his father, for Sir Forrest Fulton, his father, was the predecessor of Sir Ernest Wild in the Recordership of London. It was he who showed a Solomon-like discernment when a prisoner, pleading guilty to robbing a lady with violence, addressed a whining appeal to her to intercede for him. The Recorder turned to her and asked her what sentence she considered would be a fair one. "Three months, my lord," she replied. And three months was the sentence passed. Other examples of judicial heredity are Lord Russell of Killowen, son of the great Chief Justice; Romer, L.J., who adorns the Court of Appeal as worthily as his father, and Macnaghten, J., son of Lord Macnaghten. But to none of these applies Bowen's rather cruel remark that "some take their judgeships 'per capita,' others 'per stirpes,'" any more than it could have applied to "mighty Verulam," whose father, Sir Nicholas Bacon, had held the Great Seal before him.

A HOMELY SIMILE.

In the Judicial Committee of the Privy Council recently, Lord Roche quoted Fuller's observation that "counsel were like bread, better when they were new and not like beer, better when it was old." Such homely and forcible analogies are all too little heard in the courts to-day. One of the most ingenious illustrations ever borrowed by the bench from common things was Mr. Justice Burrough's definition of a consequential issue. To the jury he said: "Perhaps you do not know what a consequential issue means, but I dare say you understand nine-pins. Well, then, if you deliver your bowl so as to strike the front pin in a particular direction, down go the rest: just so it is with these counts; knock down the first and all the rest will go to the ground. That's what we call a consequential issue." Homely, too, was the metaphor with which Chief Justice Jeffreys quelled an advocate who had ventured to repeat once too often an ingenious argument. "You cannot lay an egg but you must cackle over it," said Jeffreys.

A sessional evening meeting of the members of The Auctioneers' and Estate Agents' Institute of the United Kingdom will be held at 29, Lincoln's Inn Fields, W.C.2, on Thursday, 3rd December, at 7 p.m., when Dr. Thomas Adams, F.R.I.B.A., F.S.I., F.I.L.A., Past-President T.P.I., will deliver, in the form of a lantern lecture, a paper entitled "Estate Planning in relation to Town Planning."

Notes of Cases.

House of Lords.

Ellison *v.* Calvert and Heald.

Lord Atkin, Lord Thankerton, Lord Russell of Killowen, Lord Macmillan and Lord Roche.
30th October, 1936.

Workmen's Compensation—Workman obliged to Work Lying on his Back—Abrasion at Back of his Head—Poisoning—Whether Accident "Arising out of the Employment"—No Reason to suppose that Abrasion would give rise to Claim—Want of Notice of Accident—Effect of—Workmen's Compensation Act, 1925 (15 & 16 Geo. 5, c. 84).

Appeal from a decision of the Court of Appeal (Greer, Slesser and Scott, L.JJ.).

A workman, who was employed by the respondents as an electrician, was working under the floor of the electrical installation at certain premises. His duties necessitated his working for long periods lying on his back, his head resting on the ground. A sore place developed on the back of his head, and he developed septic meningitis and septic pneumonia from which he died. The matter having come before the county court by way of arbitration under the Workmen's Compensation Act, 1925, the county court judge awarded the widow (the appellant) and her infant daughter £527 8s. against the respondents. The Court of Appeal held that there was no evidence entitling the county court judge to infer that the injury which caused the death resulted from an accident arising out of and in the course of the employment.

Lord Atkin said that the county court judge, in reaching his decision, had allowed himself to be guided by the principle laid down by Lord Birkenhead, L.-C., in *Lancaster* v. *Blackwell Colliery Co. Ltd.* (1920), 12 B.W.C.C. 400, at p. 163, in these words: "If the facts . . . proved give rise to conflicting inferences of equal degrees of probability so that the choice between them is a mere matter of conjecture . . . the applicant fails to prove his case . . . But where the known facts are not equally consistent . . . and where a reasonable man might hold that the more probable conclusion is that for which the applicant contends, then the arbitrator is justified in drawing an inference in his favour." The county court judge had found that the place where the deceased workman was working was pre-eminently the kind of place in which a workman was exposed to the risks of sustaining a small abrasion on his head, such as might become infected. He was of opinion that the probabilities that the deceased had sustained the injury while lying down with his head resting on the ground enormously outweighed the probabilities (if any) that the injury had been sustained in any other way. The Court of Appeal appeared to have thought that the probabilities were equal, and that it was merely guessing to come to the conclusion that the accident arose as it was now said to have arisen. In his (Lord Atkin's) opinion, that was not so. He was entirely satisfied with the county court judge's view of the case. In view of the facts, and of the nature of the wound which had been on the back of the head exactly where an abrasion would be likely to occur if the workman did lie down in the way in which such workmen were at times required to lie down, the balance of probabilities was, his lordship thought, largely in favour of the view taken by the county court judge. It had also been objected for the employers that no notice of the accident had been given to them, whereas the statute provided that notice must be given as soon as practicable unless, *inter alia*, the want of notice was occasioned by mistake or other reasonable cause. The county court judge had come to the conclusion that the workman, having first complained of the sore on 24th November, had no reason up to 26th November, to suppose that the injury was one from which a claim against his employers would be likely to arise; and in that event the occasion did not arise under which the workman was obliged to give notice. In his (his lordship's) opinion, until that time had expired there was no need to give notice because it was not right to say that the practicable time for giving it had arisen. The county court judge had preferred to assume that there was a time for giving notice, perhaps from the very beginning, but that there was reasonable cause for not giving it because the workman had not realised that his injury was one which was likely to give rise to a claim for compensation. Whichever way the matter was put, however, there was ample evidence on which the county court judge could find as he did, and he was also entitled to find that after the 27th November, and even including part of the 26th, the workman's state of health was such that he could not be expected to attend to the business of giving notice. The appeal must be allowed and the award restored.

The other noble lords concurred.

Counsel: *Edgar Dale* and *P. R. Barry*, for the appellant; *Cave*, K.C., and *S. Allen*, for the respondents.

Solicitors: *Rowley, Ashworth & Co.*, Manchester; *James Turner & Son*, agents for *Weightman, Pedder & Co.*, Liverpool.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

Court of Appeal.

Chandler Bros. Ltd. *v.* Boswell.

Greer and Greene, L.JJ., and MacKinnon, J.
15th and 16th October, 1936.

Contract—Road-making for Local Authority—Clause Giving Authority Right to Require Removal of Sub-Contractor—Sub-contract which did not Provide for this Event—Effect of Exercise of Right.

Appeal from the Official Referee.

In October, 1930, a county council entered into a contract with the defendant for the doing by him of the work of diverting a highway, including the making of a tunnel. Clause 54 provided that if at any time their engineer should be dissatisfied with any sub-contractor, the contractor, the defendant, should on written notice forthwith remove him and put an end to his employment. Clause 58 laid down certain events upon the happening of which the contractor might, upon the engineer's certificate that they had occurred, determine any sub-contract. In December, 1930, the defendant sub-contracted with Chandler Brothers for excavating the tunnel, the sub-contract being subsequently taken over by the plaintiff company, which was formed in October, 1931. The sub-contract by cl. 3 expressly defined the circumstances in which the contractor might terminate the sub-contract, but there was no provision as to what was to happen if the engineer exercised his rights under cl. 54 of the head contract. The sub-contractor agreed to carry out the work in accordance with the terms of the head contract. In April, 1932, a receiver for the company's debenture-holders was appointed. He carried on the sub-contract, but owing to financial difficulties was unable to proceed as quickly as the contract required, and in July, 1932, the engineer, exercising his power under cl. 54, required the plaintiffs' removal. After their removal the defendant completed the work himself. The Official Referee held that the agreement between the plaintiffs and the defendant had been wrongfully determined and that they were entitled to sue upon a *quantum meruit* for work done. (It was admitted that the conditions precedent to the exercise of the power under cl. 58 had never happened and that power had never in fact been exercised.)

Greer, L.J., dismissing the defendant's appeal, said that he had contended that the contract between himself and the sub-contractor had come to an end by reason of an implied term in the sub-contract, the parties being left in the position that neither was liable to the other. His lordship referred to

Horlock v. *Beal* [1916] 1 A.C. 486, and *F. A. Tamplin Steamship Co. Ltd.* v. *Anglo Mexican Petroleum Products Co. Ltd.* [1916] 2 A.C. 397, at pp. 403 and 404. It was clear that when the parties entered into this sub-contract they had the head contract before them and knew its provisions. The question was whether, having regard to the express omission of reference to cl. 54, there could be implied a term that in the event of the engineer calling on the contractor to dismiss the sub-contractor, the contractor was entitled, as between himself and the sub-contractor, to put an end to the sub-contract. It was impossible to imply such a term. The question was not what would happen if in some way not contemplated by the parties when they entered into a contract, the agreement was brought to an end, as in *Horlock* v. *Beal*, *supra*. Here what happened was in the contemplation of the parties. His lordship referred to *Bank Line Ltd.* v. *Arthur Capel & Co.* [1919] A.C. 435, at p. 459. The parties here had used by transposition clauses in the head contract for the purposes of the sub-contract, but had omitted to include cl. 54. It had been argued that the clause was imported into the contract by reason of the recital that the sub-contractor agreed to carry out the work in accordance with the terms of the principal contract, but that did not mean to include a term excluded. It meant that the work was to be provided of the quality and with the dispatch stipulated in the head contract. It had also been said that apart from any implied term the slowing down of the work by the sub-contractor justified putting an end to the contract. But not every small breach of a contract justified the putting an end to it at common law (see *Mersey Steel & Iron Co. Ltd.* v. *Naylor Benzon & Co.*, 9 App. Cas. 434). Finally, a plaintiff whose contract was broken could either claim damages for breach of contract or claim on a *quantum meruit* basis. No fault could be found because this was a *quantum meruit* claim and not a claim for damages.

GREENE, L.J., and MACKINNON, J., agreed.

COUNSEL: *White*, K.C., and *H. Phillimore*; *Rimmer* and *M. Hoare*.

SOLICITORS: *Maude & Tunnicliffe*, agents for *Dallow & Dallow*, of Wolverhampton; *Kenneth Brown, Baker, Baker*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Hilton *v.* Billington & Newton, Ltd.

Slesser and Scott, L.JJ., and Eve, J.
23rd October, 1936.

WORKMEN'S COMPENSATION—HEART STRAIN AT WORK—DISEASED CONDITION AGGRAVATED—DEATH TEN WEEKS LATER—PROPER QUESTION WHETHER STRAIN CONTRIBUTED TO DEATH.

Appeal from Hanley County Court.

On the 21st February, 1936, a very cold day, a lorry driver had constant trouble in starting his lorry and strained himself by frequently cranking it up. He returned home ill, suffering from a pain under his heart and influenza. After some days he recovered sufficiently from the influenza to return to work, but the pains continued, and at rest he had to be pillowed up. On the 20th March, he was again unable to go to work. The doctor attending him gave a certificate that he was not fit for work by reason of "heart strain." On the 6th April, he was asked to amend the certificate to describe the exact circumstances, so as to show whether the man should have wages or be treated as a compensation case, and he added that the man had had a strain at work. On the 27th April, the man died, and the post-mortem examination revealed that his heart was in a diseased condition and that a sudden strain might have caused his death at any time. On a claim by his widow under the Workmen's Compensation Act, the doctor who performed the post-mortem stated that the death was due to aortic valvular disease due to arterio-sclerosis, heart disease of long standing. He said: "I think, owing to excessive exertion and exposure, balance of heart was upset and death was directly due to that strain." Another doctor said: "His condition was consistent with cardiac defect from strain. Excessive strain would shorten his life. No signs of pleurisy. Heart condition of many years' standing. I assume he made a temporary recovery and was able to return to work." Referring to the influenza, the doctor who attended him said: "He appeared to be quite well after it. He died from heart disease (old). Think strain was a factor in his death. He was apparently well recovered when he came to my surgery. Heart was irregular, heaving pulse." The learned county court judge dismissed the claim on the ground that, though the heart strain might have caused the death, it was one of several possible causes and it had not been proved to be the effective cause.

SLESSER, L.J., allowing the widow's appeal, said that the question to be considered was whether the strain resulting from an event which happened during work had or had not contributed to the death: see *Partridge, Jones & Paton, Ltd.* v. *James* [1933] A.C. 501. The mere fact that a man was working with a diseased heart would not debar from compensation if it could be shown that the accident contributed to death or disability: see *Clover, Clayton & Co.* v. *Hughes* [1910] A.C. 242. It did not matter whether the strain was in the ordinary course of work or in the nature of an extraordinary strain. His lordship considered the evidence and said that the appeal must be allowed. A new trial would not be ordered as the employers had not brought forward a scintilla of evidence to contradict the workman's medical evidence.

SCOTT, L.J., and EVE, J., agreed.

COUNSEL: *Cave*, K.C., and *G. Oliver*: *R. Norris* and *D. L. Jenkins*.

SOLICITORS: *Pattinson & Brewer*, agents for *Hollinshead & Moody*, of Tunstall; *Berrymans*, agents for *T. Haynes Duffell & Son*, of Birmingham.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Senior: Senior *v.* Wood.

Bennett, J. 15th October, 1936.

TRUST—TWENTY-ONE YEARS' ACCUMULATION DIRECTED BY WILL—PROVISION FOR MAINTENANCE OF INFANTS CONTINGENTLY ENTITLED—MAINTENANCE BY MOTHER BEFORE EXPIRY OF PERIOD—WHETHER RECOUPMENT POSSIBLE AFTER EXPIRY—CONVEYANCING ACT, 1881 (44 & 45 Vict., c. 41), s. 43.

A testator who died in February, 1915, bequeathed certain securities to trustees upon trust to accumulate the income for twenty-one years from his death, and afterwards (*inter alia*) to pay a third of the accumulated fund to his son for life, and after his death, or, if he died within the period of twenty-one years, after its expiration, to such of that son's issue as he should appoint, or in default of appointment in equal shares to all his children who should attain twenty-one. It was provided that, notwithstanding the trust for accumulation, the trustees might pay a sum not exceeding £100 a year out of the general income or any accumulations to the guardian of any of the testator's grandchildren under twenty-one in respect of maintenance and education. The son married and two children were born in 1916 and 1922, of whom his wife obtained custody when she was granted a divorce in 1928. He was ordered to pay her £150 and £100 a year maintenance in respect of the two children. In July, 1935, the son died without having exercised his power of appointment, and the children became contingently entitled to a sixth share each of the fund on attaining twenty-one. The Divorce Court order for their maintenance having ceased to be effective, the wife

paid for it out of her own means to the extent of over £300. In February, 1936, the period prescribed for accumulation ended. By this summons, which the children took out, by their mother as next friend, it was asked, by virtue of the Conveyancing Act, 1881, s. 43, that £350 a year should be paid by the surviving trustee in respect of the maintenance of each of them. (The trustee considered that this amount was excessive, but was prepared to make certain specified payments.) It was also asked whether the trustee had power to apply the income to reimburse the wife in respect of the moneys expended by her in the past for the children's maintenance.

BENNETT, J., said that he would make no order on the first question. Further, s. 43 of the Act gave no power to recoup the mother.

COUNSEL: *Norwood: Andrew Clark.*

SOLICITORS: *Richard Brooks & Son*, agents for *Owen, Bailey & Hulme*, of Huddersfield; *Jaques & Co.*, agents for *Armitage, Sykes & Hinchcliffe*, of Huddersfield.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Sturtevant Engineering Co. Ltd. *v.* Sturtevant Mill Co. of U.S.A. Ltd.

Farwell, J. 14th, 15th and 16th October, 1936.

TRADE NAME—DISTINCTIVE NAME OF ENGLISH COMPANY WITH WIDE GOODWILL—SIMILAR NAME USED BY AMERICAN COMPANY IN AMERICA—BOTH DEALING IN MACHINERY—ENGLISH COMPANY FORMED BY AMERICAN COMPANY AND CONTROLLED BY IT—SIMILAR NAME ADOPTED—OBJECTION.

In 1886, one Mower, started in England the business of dealing in general engineering machinery. The business which was named the Sturtevant Engineering Co., because Mower obtained all his blower fans from one Sturtevant, in America, became, in 1899, a limited company, the plaintiffs in this action. There was evidence that the only other business in London known to trade under the name of Sturtevant was a silver-plating concern. The plaintiffs acquired a considerable goodwill and a recognised position in the machinery trade in England, everyone in that trade taking the name Sturtevant to connote their company and their goods. In America there existed a firm of high standing, known as the Sturtevant Mill Co., dealing in grinding, crushing and screening machinery. In 1905, they first had dealings with the plaintiffs who entered into an agreement to purchase certain machinery from them for the purpose of re-sale in England. There was evidence that the name of the American company was left on it, but the relationship was that of vendor and purchaser. In 1911, the companies entered into an agreement whereby the American company, who were the sole owners of certain patents for manufacturing machinery, granted the plaintiffs full licence to use and exercise these inventions in Europe, the American company's territory being defined by the agreement as America. The plaintiffs continued to manufacture this machinery until after the patents had expired. The agreement was determined in 1933. In 1935, the Sturtevant Mill Co. of U.S.A. Ltd., the defendants, were incorporated to carry on a machinery business. Its capital was £100, ninety-six shares being owned by the American company and two others by directors of that company. The plaintiffs now claimed an injunction to restrain the defendants from carrying on business under that name.

FARWELL, J., in giving judgment, said that a company in such circumstances could not complain of the use of its name or a word in its name unless it could be shown that serious damage had resulted or would result (see *British Legion* v. *British Legion Club (Street) Ltd.*, 48 R.P.C. 555, at p. 563, and *British Medical Association* v. *Marsh*, 48 R.P.C. 565, at p. 555). The court must be satisfied that the plaintiff company had property capable of being damaged and that what the defendants were doing had either caused damage or brought about a real fear of damage being incurred. Here the plaintiff had a goodwill and the right to use the name Sturtevant. That was a property they were entitled to have protected. The incorporation of the defendant company under its present name inevitably led to the conclusion that its use in trade would cause damage to the plaintiffs, whose name was often abbreviated to "Sturtevants," so that there would be confusion. It did not always follow that because there could be confusion there must be damage. Thus there had been postal confusion with the silver-plating company but no damage. But such confusion when two companies carried on the same trade must result in damage. There would be loss of orders, and if the defendant company were unsuccessful and were wound up, the confusion might damage the plaintiffs' credit. It was further said that there was some equity preventing the court from giving relief here. If the plaintiff had improperly claimed the benefit and reputation of the American goods in England, there might have been some such equity, but here there was none. It was also said that the defendants were entitled to use the name, as it was the name of real persons in America who had acquired goodwill for their goods there. But the case must be treated, not on the basis that the goodwill was something which existed as the same thing all over the world, but on the footing that the plaintiffs had acquired a goodwill in England which was something confined to this country. The American company's American goodwill could not be treated as part of the goodwill of the defendant company. It had been argued that as *primâ facie* a man might trade under his own name, although by so doing he might cause damage and confusion to an existing company, and if he were so trading might turn his business into a limited company, using as part of its name the name he had been using, so the defendants were entitled to use the word Sturtevant because they were clearly connected with the American company. But this was not a case of carrying on as a limited company a business formerly carried on by private persons. So far as this country was concerned, the plaintiffs must be treated as if the American company did not exist, and had no connection with the defendants. The plaintiffs must succeed.

COUNSEL: *Grant*, K.C., and *Gerald Upjohn; Roxburgh*, K.C., and *J. L. Stone.*

SOLICITORS: *Mills & Morley; Fowler, Legg & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Newport *v.* Pougher.

Eve, J. 4th November, 1936.

SOLICITOR—ACTING FOR PLAINTIFF IN ACTION FOR DISSOLUTION OF PARTNERSHIP—JUDGMENT FOR RECEIVER, ACCOUNTS AND INQUIRIES—PARTNERSHIP INSOLVENT—JUDGMENT AND CHARGING ORDER OBTAINED BY CERTAIN CREDITORS—CHARGING ORDER FOR COSTS OBTAINED BY SOLICITOR—PRIORITY OF CHARGING ORDERS—SOLICITORS ACT, 1932 (22 & 23 Geo. 5, c. 37), s. 69.

In 1933 judgment in an action for dissolution of a partnership was given in the usual form for a receiver, accounts and inquiries. The receiver collected and paid into court various partnership assets. The firm was insolvent. Certain creditors who obtained a judgment against the partnership in July, 1935, for £178 and costs, obtained, on the 17th July, a charging order in their favour in the form first settled in *Kewney* v. *Attrill*, 34 Ch. D. 345, the effect of which was to place the creditors in the same position as if the goods of the partnership had been taken in execution and sold. On the 31st July the solicitor who had acted for the plaintiff in the partnership action (which was now derelict, the plaintiff having no means to proceed with it and the defendant being bankrupt) and the defendant's solicitors obtained charging orders on the fund paid into court under s. 69 of the Solicitors Act, 1932. The plaintiff's solicitor by petition now asked for payment of his costs out of the fund in court.

EVE, J., in giving judgment, said that a charging order in the form in *Kewney* v. *Attrill* did not give a creditor any priority over the general body of creditors, but the charging orders under the Solicitors Act, 1932, had been properly made, and, subject to the costs of the petition, would rank in front of all other claims on the fund in court. The balance of the fund should be distributed *pro rata* among the general creditors, including those who obtained the charging order in July.

COUNSEL: *G. D. Johnston; A. Coulson; J. A. Mackintosh; E. Holland.*

SOLICITORS: *John J. McIntyre; G. B. Hemming & Son; Mills, Lockyer, Church & Evill; A. E. Samuels & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Berry and Stewart *v.* **Tottenham Hotspur Football and Athletic Co. Ltd.**

Clauson, J. 10th November, 1936.

COMPANY—TRANSFER OF SHARE—DIRECTORS' REFUSAL TO REGISTER—POWER UNDER ARTICLES.

By two transfers, B, the registered holder of a block of shares in the company, transferred to S one ordinary share and five ordinary shares respectively, but the company's directors refused to register the transfer, informing B that they did so in exercise of their power under Article 16 of the company's articles, which provided that: "The directors may decline to register any transfer of shares made by a member who is indebted to the company, or in case the transferee shall be a person of whom the directors do not approve or shall be considered by them objectionable, or the transfer shall be considered as having been made for purposes not conducive to the interests of the company, and the directors shall not be bound to specify the grounds upon which the registration of any transfer is declined under this article . . ." Article 49 provided: "Each member who is the holder of one share shall have one vote, if he is the holder of at least five shares he shall have two votes, and he shall also be entitled to an additional vote for every ten shares held by him beyond the first five shares. No member shall be entitled to any votes in respect of any shares unless he has been the registered holder thereof for a period of not less than one calendar month . . ." B was not indebted to the company and S was a man of the highest character. In an action for a declaration that the company was not entitled to refuse to register the transfer, the plaintiffs contended that the directors had acted under a minute of 1920 resolving that "no existing shareholder be allowed to split his holding without first getting the consent of the board," and that this minute was *ultra vires*, and it was said that registration had been regularly refused when the splitting of a holding would have meant an increase of voting power among the shareholders. It was proposed to call evidence of system.

CLAUSON, J., said that where there was an article like Article 16, the directors were not bound to give reasons for rejection, provided they had fairly considered the question, and the court would take it for granted that they had acted reasonably and *bonâ fide*: see *Ex parte Penny*, 8 Ch. App. 446. The court must hold that they had acted reasonably in the present case. Evidence by which it had been proposed to establish that on certain previous occasions the directors had rejected certain other transfers for reasons which, it was suggested, had not been justified, had been excluded. There was no evidence before the court to suggest that the directors had exercised their power otherwise than reasonably and *bonâ fide*.

COUNSEL: *Manningham-Buller*; *Morton*, K.C., and *J. Lindon.*

SOLICITORS: *Claude Hornby, Dodds & Co.*; *Parker, Garrett & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Croydon Corporation *v.* **Oldaker.**

Lord Hewart, C.J., Branson and du Parcq, JJ.
20th, 21st, 30th October, 1936.

LOCAL GOVERNMENT—STREET NOT REPAIRABLE BY INHABITANTS AT LARGE—FRONTAGER ORDERED TO EXECUTE WORK WITHIN THREE MONTHS—FRONTAGE LAND CONVEYED TO THIRD PERSON DURING THAT PERIOD—CLAIM BY LOCAL AUTHORITY FOR ESTIMATED COST OF WORK—"OWNER IN DEFAULT"—LIABILITY OF FRONTAGER—CROYDON CORPORATION ACT, 1884 (47 & 48 VICT. c. cxli), s. 39—PUBLIC HEALTH ACT, 1875 (38 & 39 VICT. c. 55), ss. 150, 257.

Appeal by case stated from a decision of Croydon justices.

On the 25th June, 1935, the appellant corporation passed a resolution in pursuance of s. 150 of the Public Health Act, 1875, whereby notices were served on the respective owners of premises fronting or abutting on those parts of a certain street in Croydon which required to be "sewered, levelled, paved . . . or made good," requiring them to do the necessary work. The street was not repairable by the inhabitants at large. The respondent, as owner of two narrow strips of land with frontages to the street, received his notice on the 27th June, 1935, and was required by it to do the specified work within three months. On the 28th June, the respondent properly and effectively conveyed the strips of land to his former coachman, paying him £5 on completion of the purchase. The respondent did not carry out the work, and on the 4th October the appellants served on him a notice demanding two sums, £131 and £130, the estimated proportions of the expense respectively attributable to the two strips of land. The respondent having refused to pay anything, the appellants lodged a complaint with the justices, claiming the £261. At the hearing of the complaint, it was contended for the appellants that the respondent, being the owner of the strips of land at the date of the service of the notice to repair, was an "owner in default" within the meaning of s. 39 of the Croydon Corporation Act, 1884. It was contended for the respondent (1) that he was not an owner in default at the date of the conveyance to his former coachman, because the three months specified in the notice had not expired; (2) that at the expiration of the three months he was not the owner of the strips of land, and therefore not an "owner in default" within the meaning of s. 150 of the Public Health Act, 1875, or of s. 39 of the Croydon Act of 1884. The justices dismissed the complaint. By s. 1 (4) of the Croydon Act, "whenever the Corporation put in force . . . s. 150 of the Public Health Act, 1875, they may before . . . executing any works . . . recover . . . the estimated cost thereof from the owners in default according to the frontage of their . . . premises . . ." *Cur adv. vult.*

LORD HEWART, C.J., delivering the written judgment of the court, said that it could not now be contended that, in order to comply with s. 39 of the Act of 1884, which added to the powers already possessed by the appellants under s. 150 of the Act of 1875, a person required to execute work during his ownership and omitting to do so must be shown to be the "owner" also at the time when it was sought to recover from him the cost of the work. A similar contention had been rejected in *Millard* v. *Balby-with-Hexthorpe Urban Council* [1905] 1 K.B. 60, where, at p. 64, it was said by Collins, M.R., that the default contemplated was default in executing the works and not in payment of the sum demanded. The court there had expressly disapproved a *dictum* of Cockburn, C.J., in *R.* v. *Swindon Local Board* (1879), 4 Q.B.D. 305, at p. 307, to the effect that the "owner in default" must be one who continued to be the owner when the money was demanded. The present respondent, however, contended that "owner in default" was not apt to include one who ceased to be owner

after service of the notice but before expiry of the three months limited by it for compliance, and he relied on the *Swindon Case, supra*. The court was bound by that case, which the Court of Appeal had not overruled, but was neither bound nor entitled to treat it as an authority for more than the precise point which it decided. In that case the court was of opinion that s. 257 of the Act of 1875 might be brought in to supplement what would be a different state of things if s. 150 stood alone. Section 257 empowered the local authority to recover certain expenses from any person who was, at the time when the work was completed, the owner of the premises involved. It was accordingly held that, in the circumstances of that case, the "owner in default" must be one who continued to be the owner when the work was completed. Section 257, however, had no application to the present case. It was clearly impossible to read the expression "owner in default" in s. 39 of the Croydon Act as meaning the owner "when the work is completed." The "owner" at whom the section was aimed was the owner at the time the notice was served. If he failed to execute the work, he became and remained for the purposes of the section the "owner in default." The appeal must be allowed and the justices directed that the respondent was liable to pay the sum claimed.

COUNSEL: *Turner*, K.C., and *T. G. Talbot*, for the appellants; *Montgomery*, K.C., and *A. Capewell*, for the respondent.

SOLICITORS: *Smith, Rundell, Dods & Bockett*, agents for *J. M. Newnham*, Town Clerk, Croydon; *Cooper, Walker and Hall*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Olding *v.* Olding.

Sir Boyd Merriman, P., and Langton, J.
14th October, 1936.

HUSBAND AND WIFE—MAINTENANCE ORDER—SUMMONS FOR ARREARS—HUSBAND'S CROSS-SUMMONS FOR RESCISSION ON GROUND OF ADULTERY—WIFE ENTITLED TO PARTICULARS—SHORT RETURN OF SUMMONS—CASE SENT BACK FOR RE-HEARING ON TERMS.

This was the wife's appeal from an order of the justices of the Petty Sessional Division of Bedwellty, Mon., sitting at the Police Court at Abertillery discharging a maintenance order on the ground of adultery. The matter first came before the justices this year on a summons for arrears, which was adjourned twice on the statement that the husband proposed to issue a cross-summons for rescission of the maintenance order on the ground of adultery. That summons was not, in fact, taken out or served until the day of the adjourned hearing, but was adjudicated upon with the result that the maintenance order was discharged, the wife having been offered an adjournment which she refused. A re-hearing was now asked for on the grounds, *inter alia*, (1) that the husband's summons was not returnable on the day of issue; (2) that the wife should have been furnished with full particulars of the allegations made against her in conformity with the judgment of Lord Merrivale, P., in *Boston* v. *Boston* (1928), 138 L.T. 647. With the husband's summons a letter was handed to the wife making it quite clear, as she knew also from an earlier statement in open court, that she was being charged with adultery with a named man over a period of four years.

SIR BOYD MERRIMAN, P., in giving judgment, said that it was conceded that there was no authority for any specified length of return of a summons by a court of summary jurisdiction. In the case before the court there was no doubt that the woman was there on her own application, and that she was served with the summons, and in his view it would be impossible for the court, without uprooting the whole summary jurisdiction of the country, to lay down as a matter of law that no summons could be made returnable on the day of issue. With regard to the form of the summons which merely stated that the wife had committed adultery since the making of the original order, that, having regard to the decision in *Boston* v. *Boston, supra*, that proper particulars ought to be given, was in too common use. Nevertheless, however much instances which were to be given in support of the charge of adultery were particularised, the charge still remained one of adultery. Although if the particular instance fell to the ground, the charge fell with it, the finding was never a finding of adultery on a particular day, but a finding of adultery or no adultery. It was quite impossible to say that a summons which gave the particulars contained in the letter in the present case was bad for want of particularity. If the party desired further particulars, and the circumstances were such that the demand was reasonable, provision ought to be made by the court for the furnishing of them. Further, if there was any irregularity, he (his lordship) was inclined to think that it had been waived. In the circumstances, however, and on the assurance that the wife intended to adduce fresh evidence and to develop her defence fully, he (his lordship) thought that the case should be remitted for further hearing, but as the wife was entirely to blame for what had happened, saving that it was unwise to make the return so short, the wife should not have her costs of the appeal.

LANGTON, J., delivered an assenting judgment.

COUNSEL: *E. R. Guest*, for the appellant wife; *R. J. A. Temple*, for the respondent husband.

SOLICITORS: *C. P. Gartside*, Abertillery; *Collyer-Bristow and Co.*, for *D. Granville West*, Newport, Mon.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Obituary.

SIR FRANCIS PEPPER.

Sir Francis Henry Pepper, J.P., solicitor, a partner in the firm of Messrs. Pepper, Tangye & Winterton, of Birmingham, died on Saturday, 21st November, at the age of seventy-three. He was admitted a solicitor in 1886, and in 1925–26 he was President of the Birmingham Law Society. He received the honour of knighthood in 1934. Sir Francis was a director of the Austin Motor Company, and chairman of Payton, Pepper and Sons and Cannon Iron Foundries. He was a member of the Birmingham City Council.

MR. J. M. R. TODD.

Mr. John Myles Rogers Todd, F.R.A.S., Barrister-at-Law, of Temple Gardens, Temple, died at his home at Hextable, Kent, on Thursday, 19th November, at the age of eighty-six. Mr. Todd was called to the Bar by the Middle Temple in 1910.

MR. G. E. HILLEARY.

Mr. George Edward Hilleary, M.A. Cantab., solicitor, senior partner in the firm of Messrs. Hillearys, of Mark Lane, E.C., and of Stratford, died at Shanklin, on Tuesday, 10th November, at the age of sixty-seven. Mr. Hilleary, who was admitted a solicitor in 1893, was Coroner for West Ham for thirty-seven years. He was also Town Clerk of that borough for some years.

MR. T. HUGHES.

Mr. Thomas Hughes, solicitor, of Newport, Mon., died recently at the age of sixty-six. Mr. Hughes, who was admitted a solicitor in 1891, was Clerk of the Peace and Clerk of the Monmouthshire County Council.

MR. J. J. WILLIAMS.

Mr. John Jones Williams, solicitor, head of the firm of Messrs. Wm. Griffith, Adams & Williams, of Barmouth and Dolgelly, died recently in his sixtieth year. Mr. Williams, who was admitted a solicitor in 1902, had held the office of Clerk to the Dolgelly Urban District Council.

Reviews.

Handbook on the Formation, Management and Winding Up of Joint Stock Companies, by Sir Francis Gore-Browne, M.A., K.C., Master of the Bench of the Inner Temple. 39th Edition. 1936. By His Honour Judge Haydon, M.A., K.C., and Stanley Borrie. Royal 8vo. pp. c and (with Index) 916. London: Jordan & Sons, Ltd. 20s. net.

"Gore-Browne" is now seventy years old, and the weight of advancing years tends to make its name of "Handbook" somewhat of a misnomer, but it is as up to date as the most exacting practitioner could demand. There is probably no branch of the law in regard to which it is more essential for the lawyer to have access to modern books than the branch which relates to companies, and this need is amply supplied by "Gore-Browne."

It is difficult to believe how this is done at the modest price demanded, and there can surely be no better value in legal text-books than this, covering as it does the whole of company law, and including within its covers much information of a practical kind which otherwise would not be readily accessible to the practitioner. This is perhaps its strongest point, that, in addition to the substantive law, one can find ample guidance in these pages on what may be called the practical side of things—the requirements of, and practice at the Registry—a side on which, from the origins of the book, one is justified in treating it as an authority.

It is unnecessary to say that the book deals faithfully with the complex question of stamp duties, and the appearance on the title page of the name of one of the editors of "Alpe" is a guarantee that full justice is done to this most important, and sometimes neglected, branch of the law. Such a matter as the revised scale of commissions of the London Stock Exchange has not been overlooked.

So far as can be seen, no case of any moment reported since the last edition has escaped notice in its due place, and the editors are to be congratulated on an edition in no whit below the high standard set by their predecessors. Altogether this is a most useful work, and one which no practitioner, who desires his library to be complete and up to date, can afford to have absent from his shelves.

The Book of English Law. By Edward Jenks, D.C.L. (Oxon), Hon. D.Litt. (Wales), Hon. LL.D. (Bristol), Barrister-at-Law, Emeritus Professor of English Law in the University of London. Fourth, Revised, Edition. 1936. Demy 8vo. pp. xix and (with Index) 460. London: John Murray. 12s. net.

The fact that this excellent work has reached a fourth edition within a comparatively short time is striking testimony to its usefulness as an introduction to English law and its administration. To make this subject attractive to the general reader is not given to everyone, and, indeed, since Blackstone published his famous "Commentaries" the writers who have achieved success in this department have been singularly few. Among this select band, however, must be included Professor Jenks, whose work is presented in a style to win the attention of the educated layman for whom primarily it is intended, although, it should be added, practitioners may well benefit by its perusal for, familiar as they are with the technical rules with which they have been indoctrinated, they are apt to overlook their rationale. So the book may be useful to layman and lawyer alike. While concerned mainly in expounding the law as it is, the learned author offers occasional useful criticisms, calling attention, for example, to county quarter sessions, which he says is *primâ facie* about as bad a tribunal as could be imagined for the trial of serious offences, although, as he proceeds to point out, this weakness is often modified, if not completely removed, by the fact that a trained lawyer is sometimes available as chairman. As we gather, there is now a movement in the direction of making this the rule instead of the exception. In another section of the work the Professor calls attention to the popular misconception about the so-called seven years' bar to prosecutions for bigamy. All that the bar affords, as he points out, is, that if the accused person can persuade the jury that he or she had not for seven years seen or heard of the missing spouse in circumstances in which, if living, news of that spouse's existence would naturally have reached him or her, the accused person is entitled to be acquitted from the penal consequences of bigamy; but, of course, the second so-called marriage is a nullity. In a work covering so wide a field we have detected very few slips, and none of grave moment. It is not, however, quite accurate to state quite broadly that the Court of Appeal "accepts the facts as found by the court of first instance." It does so in the case of appeals from the county court, but in other cases, although slow to interfere with the findings of fact of the trial judge, it occasionally does do; an instance occurred quite lately. Again, the statement on p. 79 that counsel "cannot bind his client by anything he says in court" is much too widely stated. But these are small matters. We can heartily recommend the volume, the modest price at which it is available being an additional attraction to potential purchasers.

The Insurance Directory and Year Book, 1936-37. London: Buckley Press, Ltd. Green cloth, price 7s.; brown cloth, price 6s.

This is the ninety-sixth year of publication of this annual, which is better known as the Post Magazine Almanack. The 1936-37 edition contains over 600 pages, and is a useful reference book for the office. In addition to statistics and facts of the various classes of insurance, there is a directory of insurance offices and a section entitled "Who's Who in the Insurance World."

Books Received.

Radiodiffusion. No. 3. October, 1936. Geneva: International Broadcasting Union. London: B.B.C. Bookshop. 2s.

Private Companies: Their Management and Statutory Obligations. By Stanley Borrie, Solicitor. Fourth Edition. 1936. Demy 8vo. pp. xii and (with Index) 205. London: Jordan and Sons, Ltd. 5s. net.

The Conduct of and Procedure at Public, Company and Local Government Meetings. By Albert Crew, of Gray's Inn, and the Middle Temple, Barrister-at-Law, Recorder of Sandwich, assisted by Evelyn Miles, B.A., B.Sc., of the University of London and Lincoln's Inn, Barrister-at-Law. Fifteenth Edition. 1936. Crown 8vo. pp. xxxii and (with Index) 435. London: Jordan & Sons, Ltd. 7s. 6d. net.

A Treatise on the Law of Civil Salvage. By William Rann Kennedy, lately one of the Lords Justices of His Majesty's Court of Appeal. Third Edition. 1936. By A. R. Kennedy, Master of the Bench of the Honourable Society of Lincoln's Inn, one of His Majesty's Counsel, Judge of County Courts. Royal 8vo. pp. xxxv and (with Index) 303. London: Stevens & Sons, Ltd. 15s. net.

A Handbook to the Changes effected by the County Court Rules, 1936. By J. S. Watson, B.A., of the Inner Temple and Northern Circuit, Barrister-at-Law. 1936. Demy 8vo. pp. 32. London: Sweet & Maxwell, Ltd.; Stevens and Sons, Ltd. 2s. 6d. net.

The Law of Civil Aviation. By N. H. Moller, M.A., LL.M. (Cantab.), Barrister-at-Law. 1936. Demy 8vo. pp. xxxi and (with Index) 550. London: Sweet & Maxwell, Ltd. 25s. net.

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Sweet & Maxwell's Diary for Lawyers, 1937. Forty-fifth Edition. Edited by PHILIP CLARK, of the Central Office, Royal Courts of Justice. Demy 8vo. London: Sweet and Maxwell, Ltd.; Manchester: Meredith, Ray & Littler, Ltd. 6s. 6d. net.

Gibson's Practice of the Courts. Sixteenth Edition, 1936. By ARTHUR WELDON, Solicitor, and ROBERT LEE MOSSE, a Master of the Supreme Court. Royal 8vo. pp. xxxvi and (with Index) 299. London: The "Law Notes" Publishing Offices. £1 1s. net. Postage, 6d. extra.

Journal of Comparative Legislation and International Law. Third Series. Vol. XVIII, Part IV. November, 1936. Edited by F. M. GOADBY, D.C.L. London: Society of Comparative Legislation. Price 6s.

Herbert Fry's Royal Guide to the Principal London and other Charities. 1936. Crown 8vo. pp. lii and 294. London: The Churchman Publishing Co. Ltd. 2s. net.

Maxims and Presumptions. By THE HON. LORD ROBERTSON. 1936. London, Edinburgh and Glasgow: William Hodge and Co., Ltd. Price 1s.

The Journal of the Society of Public Teachers of Law, 1936. Edited by H. F. JOLOWICZ, M.A., LL.D. London: Butterworth & Co. (Publishers) Ltd. 3s. 6d. net.

Parliamentary News.

Progress of Bills.

House of Lords.

Diseases of Fish Bill.
Read Second Time. [24th November.

Firearms Bill.
Read First Time. [24th November.

Judiciary (Safeguarding) Bill.
Read Second Time. [24th November.

Railway Freight Rebates Bill.
Read Second Time. [24th November.

House of Commons.

Coal Mines (Employment of Boys) Bill.
Read Second Time. [20th November.

Importation of Plumage (Prohibition) Act (1921) Amendment Bill.
Read First Time. [23rd November.

Infanticide Bill.
Read First Time. [24th November.

Marriage Bill.
Read Second Time. [20th November.

Ministry of Health Provisional Order (Evesham and Pershore Joint Hospital District) Bill.
Read First Time. [23rd November.

Ministry of Health Provisional Order (Port of Manchester) Bill.
Read First Time. [23rd November.

Public Order Bill.
In Committee. [23rd November.

Trunk Roads Bill.
Read Second Time. [19th November.

Questions to Ministers.

COURTS OF SUMMARY JURISDICTION (WELSH LANGUAGE).

Mr. ERNEST EVANS asked the Home Secretary what provisions exist for securing that there shall be available in Wales and Monmouthshire official Welsh versions of all questions, cautions and explanations of charges which the Summary Jurisdiction Acts and the Criminal Justice Act require shall be addressed to the accused on the hearing of charges against them in courts of summary jurisdiction; whether, in the event of such provisions not being available, he will take steps to make them; and whether he will take the necessary steps to provide a statutory Welsh form of every oath and affirmation required to be taken and made in courts of law in Wales and Monmouthshire?

Sir J. SIMON: So far as I am aware no difficulty has been experienced in providing for a defendant to be fully informed of the course of the proceedings through an interpreter, if he is unable to understand English; and I believe that if necessary the oath is administered to a witness in a similar way. I know of no ground for an alteration of the existing procedure. [19th November.

Rules and Orders.

THE DRAFT LAND REGISTRY (MIDDLESEX DEEDS) RULES, 1936.

I, Douglas McGarel Viscount Hailsham, Lord High Chancellor of Great Britain, with the advice and assistance of Sir John Stewart Stewart-Wallace, Chief Land Registrar, by virtue and in pursuance of the Middlesex Registry Act, 1708, and the Land Registry (Middlesex Deeds) Act, 1891, as amended by the Law of Property Act, 1925, and the Land Registration Act, 1936, and of all other powers and authorities enabling me in that behalf propose to make the following general rules:—

1. *Application to be by post only.*]—(1) Every application for—

(*a*) the registration of a memorial of an instrument registrable pursuant to section 2 of the Land Registration Act, 1936, or

(*b*) an official search; or

(*c*) the discharge of a mortgage; or

(*d*) an office copy of a memorial filed in the Registry;

shall be in writing, enclosed in an envelope addressed to the Middlesex Deeds Superintendent, Lion House, Red Lion Street, High Holborn, W.C.1, and shall be delivered at or sent by prepaid post to that address, and shall be accompanied by the prescribed fee.

(2) An application for an office copy of a memorial shall be in the Form No. M.X.8 set out in the Schedule to these Rules.

2. *Return and issue of documents by post.*]—(1) Any deed or other document accompanying an application which is returnable to the applicant, shall be returned by post on completion of the registration.

(2) Every certificate of the result of an official search and every office copy of a memorial shall be issued by post.

3. *Revocation.*]—The Land Registry (Middlesex Deeds) Rules, 1922, rules 2, 6 and 13 of the Land Registry (Middlesex Deeds) Rules, 1926, and Form No. M.X.7 in the Schedule thereto shall be revoked.

4. *Short title and commencement.*]—These Rules may be cited as the Land Registry (Middlesex Deeds) Rules, 1936, and shall come into force on the 1st day of January, 1937.

SCHEDULE.

Form No. M.X.8.

Application for an office Copy of memorial.

We hereby apply for an office copy of a memorial (and/or plan) the particulars of which are given in the schedule below:—

Signature of applicant or his Solicitor .....

Address .....

Date .....

Schedule of registration references.

DRAFT LAND REGISTRATION RULES 1936 PROPOSED TO BE MADE BY THE LORD CHANCELLOR UNDER SECTION 144 OF THE LAND REGISTRATION ACT, 1925 (15 & 16 GEO. 5. c. 21).

Amendment of the Land Registration Rules, 1930.

1. *Rule* 1 (*b*) *Priority given for* 14 *days.*]—In rule 1 (*b*) of the Land Registration Rules, 1930, the word "fifteenth" shall be substituted for the word "third" before the word "day."

2. *Short title and commencement.*]—(1) These rules may be cited as the Land Registration Rules, 1936.

(2) They shall be read and construed with the Land Registration Rules, 1925,* and the Land Registration Rules, 1930† and shall come into force on the 1st day of January, 1937.

* S.R. & O. 1925, No. 1093. † S.R. & O. 1930, No. 211.

THE COUNTY COURT FEES ORDER, 1936. Dated November 2, 1936. [S.R. & O. 1936, No. 1160/L.27. Price 7d. net.]

THE HIGH-BAILIFF COURT ORDER, 1936.
DATED NOVEMBER 7, 1936.

Whereas by Rule 1 of Order L of the County Court Rules, 1936,* it is provided that those Rules shall apply to courts where the offices of high bailiff and registrar are held by different persons with such modifications as may be necessary, and that the Lord Chancellor may from time to time make orders prescribing such modifications so far as in his opinion it is necessary or desirable that they should be expressly set out:

Now therefore, I, Douglas McGarel Viscount Hailsham, Lord High Chancellor of Great Britain, do hereby order and prescribe as follows:—

1. In this Order, unless the context otherwise requires—
"Rules" means the County Court Rules, 1936;
"Form" means a Form in Appendix A to the Rules;
An Order or Rule referred to by number means the Order or Rule so numbered in the Rules;
"High-bailiff court" means a court where the offices of high bailiff and registrar are held by different persons.

2. In the application of the Rules to high-bailiff courts, the Rules shall be modified as shown in the succeeding paragraphs of this Order.

3. The Rules shall be construed as if the words "high bailiff" were substituted for the word "registrar" in the following places:—
(*a*) Order VIII, Rules 1, 10 (where the word "registrar" first occurs), 28 (where the word first occurs), 30, 33 (where it first occurs), 34 (where it first occurs), 35, 37;
(*b*) Order XVI, Rule 11 (*d*) (iii), 11 (*e*) (wherever it occurs);
(*c*) Order XXIV, Rules 22 (2) (in both places where it occurs), 30 (2) (in both places where it occurs);
(*d*) Order XXV, Rules 9 (2), 9 (3), 10 (where it first occurs in each paragraph), 12, 13 (4) (wherever it occurs), 20 (where it first occurs), 21 (where it first occurs), 22 (where it first occurs), 25 (wherever it occurs), 28, 29, 30 (*b*) (where it occurs for the second time), 31 (wherever it occurs), 40 (2), 59 (*b*) (where it occurs for the second time), 59 (*c*), 73;
(*e*) Order XXVIII, Rules 2, 3 (wherever it occurs), 4, 10, 11, 12 (in both places where it occurs), 13 (in both places where it occurs).
(*f*) Order XXXV, Rules 41 (where it first occurs), 42, 43, 44, 46.

4. Order VIII, Rule 7, shall be construed as if the words "the high bailiff of" were inserted before "the foreign court."

5. Order VIII, Rule 9, shall be construed as if the words "the high bailiff who shall return them to" were inserted before "the registrar."

6. Order XXV, Rule 11, shall have effect as if the words "and re-issued by him for execution, the high bailiff" were substituted for the words "for execution, he".

7. Order XXV shall have effect as if after Rule 19 the following Rule were inserted:—
"19A.—(1) Where the high bailiff of a court has levied or received any money under an execution issued in that court, he shall, unless required by statute to retain the money pay it to the registrar within 24 hours of receiving it.
(2) Where the high bailiff receives notice under Section 41 of the Bankruptcy Act, 1914,† or Section 269 of the Companies Act, 1929,‡ after he has paid to the registrar money seized or received in part satisfaction of an execution, he shall deliver the notice to the registrar."

8. Order XXV, Rule 30, shall have effect as if in paragraph (*a*) and also in paragraph (*c*) the words "the high bailiff who shall inform" were inserted after "the registrar shall inform."

9. Order XXV, Rule 59, shall have effect as if in paragraph (*a*) the words "the high bailiff who shall inform" were inserted before "the registrar."

10. Order XXVIII, Rule 5, shall have effect as if the words "the high bailiff shall apply for the issue of an interpleader summons, and" were inserted before "the registrar."

11. Order XXVIII, Rule 12, shall have effect as if the words "to the high bailiff and" were inserted before "to the registrar."

12. The forms used in high-bailiff courts shall be the prescribed Forms with such modifications as may be necessary, and the prescribed Forms sent to a high-bailiff court may be appropriately modified by the registrar who sends the Form, and if not so modified, shall be construed as if it had been so modified and may be altered accordingly by the registrar of the court to which it is sent.

13. This Order may be cited as the High-Bailiff Court Order, 1936, and shall come into operation on the 1st day of January, 1937.

Dated this 7th day of November, 1936.

Hailsham, C.

* S.R. & O. 1936, No. 626. † 4 & 5 Geo 5 c. 59. ‡ 19 & 20 Geo. 5 c. 23.

Societies.

Inns of Court.

CALLS TO THE BAR.

Tuesday, 17th November, was Call Night at the Inns of Court. The following were called:—

LINCOLN'S INN.

Harbans Singh, of Punj. Univ., B.A., Studentship, Council of Legal Education, Michaelmas, 1936, Langdon Medal, Michaelmas, 1936, Buchanan Prize, Lincoln's Inn, Michaelmas, 1936; S. B. R. Cooke, of Gonv. and Cai. Coll., Camb., B.A. (Hons.), a Cholmeley Student, Lincoln's Inn, Studentship, Council of Legal Education, Trinity Term, 1936, Buchanan Prize, Lincoln's Inn, Trinity Term, 1936; J. R. Prior, of Dur. Univ., M.D., B.S., of Lond. Univ., LL.B.; E. D. Renwick, of New Coll., Oxf., B.A.; Nilkanthrai Mohanlal Buch, of Lond. Univ., and of Bomb. Univ., B.A. (Hons.); J. A. Armstrong, of Trin. Coll., Camb.; P. R. Pain, of Ch. Ch., Oxf., B.A.; C. Chesterfield, of Selw. Coll., Camb.; Tengku Abdullah Hassan, of St. John's Coll., Camb., B.A.; T. D. L. Aponso, of Lond. Univ.; Sagarajasingam Namasivayam, of Univ. Coll., Lond., B.A., and of St. Peter's Hall, Oxf.; J. R. McCready, of Worc. Coll., Oxf., B.A. (Hons.); F. B. Marsh, of Wad. Coll., Oxf., B.A., B.C.L.; Dhirajlal Jatashankar Chanchani, of Bomb. Univ., B.Sc.

INNER TEMPLE.

D. Lloyd (holder of a Certificate of Honour, awarded Michaelmas Term, 1936, and of a Yarborough-Anderson Scholarship, awarded Michaelmas Term, 1934), of Univ. Coll., Lond., LL.B., and Gonv. and Cai. Coll., Camb.; R. C. Martin, of Clare Coll., Camb., B.A., LL.B.; H. Barnes, of Trin. Coll., Camb., M.A., Fellow and Lecturer of Jes. Coll., Camb., University Lecturer in Law; H. O. Nunes, of Pemb. Coll., Oxf.; H. L. Smith, of New Coll., Oxf., B.A.; J. Weinberg, of Linc. Coll., Oxf.; E. P. Shanks, of Down. Coll., Camb., B.A.; A. C. C. Macpherson, of Worc. Coll., Oxf., M.A.; D. W. F. Barker, of Pemb. Coll., Camb., B.A.; J. O. P. Griffiths, of Ex. Coll., Oxf., B.A.; R. H. T. Whitty (holder of a Pupil Studentship, awarded Trinity Term, 1936), of Bras. Coll., Oxf., B.A.; R. J. Friel, of Trin. Hall, Camb., B.A.; H. Hartley, of Univ. Coll., Lond., B.Sc.; W. Wallace, of St. Ed. Hall, Oxf., B.A.; S. C. Liew, of Queen's Coll., Camb., B.A., LL.B.; W. E. Lewis, of the Univ. Coll. of Wales, Aber., LL.B.; R. G. Walford, of Trin. Coll., Camb., B.A.; N. A. Watkins, of Worc. Coll., Oxf., B.A.; A. G. Bridges, of Jes. Coll., Camb., B.A.; C. A. S. Legge, of Worc. Coll., Oxf., B.A.; J. A. Byers, of Ball. Coll., Oxf., M.A.; W. H. Openshaw, of St. Cath. Coll., Camb., B.A.; W. W. Boulton, of Trin. Coll., Camb., B.A.; D. A. Parry, of King's Coll., Camb., B.A.; W. W. Stabb, of Univ. Coll., Oxf., B.A.; Mrs. M. A. Warner, of Univ. Coll., Lond., LL.B.; H. H. B. How; R. Walter, of C. C. C., Camb., B.A.; J. B. Hewson, Lieutenant-Commander, R.N.R.; V. K. Wolff, of the Univ. of Lond., LL.M.

MIDDLE TEMPLE.

R. B. Beckett, B.A., of Lin. Coll., Oxf.; I. Fine, B.A., of Lond. Univ.; D. Mary Griffith, M.A., of Newn. Coll., Camb., M.A., of the Univ. of Wales; A. J. Kellar, M.A. (Hons. Econ.), LL.B., of Edin. Univ., Commonwealth Fund Fellow, Edinburgh University, A.M., of Columbia Univ.; E. V. Luckhoo, B.A. (Hons.), of St. Cath.'s Soc., Oxf.; Surjeet Singh, B.A. (Hons. Oriental History), of Lond. Univ., B.A., of Punj. Univ.; Boo Pee Khoo; T. D. F. Griffiths, B.A. (Hons.), of Lin. Coll., Oxf.; B. J. L. W. Rogers-Tillstone; N. S. S. Warren, B.A., of Hert. Coll., Oxf., Harmsworth Law Scholar; J. D. Wilson, B.A., of Trinity Hall, Camb.; Emmanuel Prempeh Asafu-Adjaye; P. H. R. Bristow, B.A. (Hons.), of Tty. Coll., Camb.; E. J. E. Law, B.A., of St. Cath.'s Coll., Camb.; Gopal Ramchandra Bal, B.A., of Bomb. Univ.; M. I. Mail, B.A. (Hons.), of King's Coll., Camb.; R. A. Bennett-Levy, B.A., of Clare Coll., Camb.; S. Mary Bedworth; K. P. O'Neill, B.A., B.C.L., of Worc. Coll., Oxf.; D. L. McDonnell, B.A., of Sid. Sus. Coll., Camb.; T. Dymock, B.Sc., of Lond. Univ.; A. F. Holland, B.A., of Emman. Coll., Camb.; H. Matadial; D. J. Sheridan, B.A. (1st Class Honours), of Pemb. Coll., Camb., Harmsworth Law Scholar; D. W. Markwick, B.A., LL.B. (Class 1), of Fitzwilliam House, Camb., Harmsworth Law Scholar; R. Gold; Ramesh Chand Bhandari, M.A., of Punj. Univ.; J. Lewis, B.A., LL.B., of Cape Town Univ.

GRAY'S INN.

J. M. Keidan, holder of a Certificate of Honour, Council of Legal Education, Trinity, 1935, B.A., LL.B., St. John's Coll., Camb., LL.M., Univ. of Lond., Lord Justice Holker Junior Scholar, Gray's Inn, 1933, Lord Justice Holker Senior

Scholar, Gray's Inn, 1936, Joint Arden Scholar, Gray's Inn, 1936; H. Lauterpacht, LL.D., Univ. of Lond., LL.D., University of Vienna, Reader in Public International Law in the University of London; L. Harvatt, M.A., Univ. of Shef.; H. M. Scott, Magd. Coll., Oxf.; M. A. B. Harrison, B.A., Ch. Ch. Oxf.; N. L. Hindley, M.A., Gonv. and Cai. College, Camb.; C. W. Jenks, M.A., Gonv. and Cai. Coll., Camb.; S. Barron, B.Sc. (Econ.), Univ. of Lond.; S. N. B. Wijeyekoon, B.A., Hert. Coll., Oxf.; F. C. de Saram, Keb. Coll., Oxf.; Sir John Prichard-Jones, Bt., B.A., Ch. Ch., Oxf.; F. C. R. Martens; L. Thurley, LL.B., Univ. of Leeds; J. Christie, B.A., Wad. Coll., Oxf.; Mian Mohamed Ayub, B.A., Univ. of Lond.; W. R. K. Merrylees, B.Sc. (Econ.), Univ. of Lond.; F. J. Nance, LL.B., Univ. of Liv.; M. Schmitthoff, LL.M., Univ. of Lond., LL.D., Univ. of Berlin, a member of the German Bar; M. Caspi, LL.B., Univ. of Lond.; H. Morris.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 17th November (Chairman, Mr. G. M. Parbury), the subject for debate was "That England's frontier is east of the Rhine not west of the Rhine." Mr. D. H. McMullen opened in the affirmative; Mr. E. W. Huddart opened in the negative. The following members also spoke: Messrs. L. Long, G. Roberts, E. V. E. White, F. Willis, Q. B. Hurst, P. H. North Lewis, G. Russo, P. W. Jones and W. H. Pleadwell. The opener having replied, and the Chairman having summed up, the motion was carried by seven votes. There were twenty-six members and three visitors present.

British Records Association.

ANNUAL CONFERENCE.

This Association held its fourth annual meeting and conference on Monday, 16th November, at Burlington House. In the morning the Records Preservation Section met for a discussion on Manorial Records, their Interest and their Preservation, which was opened by Miss Joan Wake (Northampton). She said that the most important record of the manor was the court roll, the formal record of the business of the court kept by the steward. The system was no doubt copied from the practice of the King's court. The earliest rolls were written in Latin on sheets of parchment sewn with linen thread and rolled; in the fifteenth century and later they began to be written on paper, and in the eighteenth in books, sometimes heavy and bulky. They were compiled from various returns sent in to the steward and from the notes taken in court by the steward or his bailiff, and consisted of such things as lists of jurors and of suitors to the court, presentments of the tithing men, lists of essoins and village bye-laws. One of the most illuminating of all manorial records was the bailiff's account, in which the manor came to life again and the student could see the farming of the demesne lands, the conditions of the tenants and the periodical visits of the steward. There were also the extracts recording the surrenders and admittances of customary tenants and the copies of the rolls which were the title deeds of the copyholders. An ancient class of records which had only ceased to exist at the beginning of 1926 were the summons to the court, the oath administered to the jury, the proclamation for heirs, and so on. Miss Wake described amusingly the form in which the courts had survived until their statutory extinction; the meeting in an upper room of a village inn, at which the bailiff would solemnly open the door and announce to an entirely imaginary crowd that all manner of persons who owed suit and service to the court leet and court baron of the Provost and College of Eton should draw near and answer to their names, thereby saving their amercement. Sometimes a court would meet in the open market place and then adjourn to the inn.

Manorial documents were placed under the charge of the Master of the Rolls by the Law of Property Act, 1922. Approved repositories had been appointed in every county for their reception, and lords of the manor had co-operated in the most public-spirited way in helping to obtain particulars of manors and knowledge of the existing records. Out of 23,000 known manors, records existed for no fewer than 10,000. The ten years during which the incidence of copyholds had still been payable had expired at the beginning of the present year, but a further period of five years was allowed for the settlement of claims. In manors where the amount of compensation had not yet been agreed upon, the stewards might therefore require the rolls for reference up to the 31st December, 1940. The Act had not done away with manors, and solicitors might still desire to consult the rolls on questions of mineral and sporting rights and of title. When the stewards no longer had any legal interest in the rolls, the Association could confidently ask for their assistance without causing them any inconvenience. Members must keep an eye on the records of live or recently defunct manors with a view to having them deposited in the local repositories. They first required lists, and when the possibilities of the great central repositories had been exhausted, an immense quantity of records would still be found in the lumber rooms, cupboards and cellars of houses and of solicitors' offices. The manorial register at the Public Records Office, county directories and the old Return of Landowners would be useful and the local law societies could help if they would. The stewards were as a rule most willing to help and sometimes the land agents had acted as stewards.

At the general meeting Lord Wright, Master of the Rolls, in moving the adoption of the report and accounts, referred with regret to the death of Lord Hanworth, who had helped to found the Association and had done so much for the preservation of private records. He recounted an accession during the year of over forty institutions, made up of local authorities, colleges, schools, religious bodies and publishing societies, and of nearly seventy new individual members.

The Worshipful Company of Merchant Taylors entertained the conference in the evening to a reception, and the guests inspected collections of typical manorial documents and of business archives.

Gray's Inn.

GRAND DAY.

Friday, 13th November, being the Grand Day of Michaelmas Term at Gray's Inn, the Treasurer (Master Lord Morison) and the Masters of the Bench entertained at dinner the following guests:—Viscount Dawson of Penn, the Treasurer of the Hon. Society of the Inner Temple (Mr. Justice Talbot), Mr. Justice Bucknill, Sir Reginald Coventry, K.C., Lord Hunter, Lord Pitman, Chief of the Imperial General Staff (Field-Marshal Sir Cyril Deverell), General Sir Walter Braithwaite, Sir Arnold Wilson, M.P., Lieutenant-Colonel Sir Charles Heaton-Ellis, Mr. J. W. de B. Farris, K.C. (Canada), Mr. Louis St. Laurent, K.C. (Canada), and Mr. A. G. Leonard. The Benchers present, in addition to the Treasurer, were:—Sir Dunbar Plunket Barton, K.C., Mr. Herbert F. Manisty, K.C., Mr. Edward Clayton, K.C., Lord Atkin, Sir Montagu Sharpe, K.C., Sir Cecil Walsh, K.C, Mr. R. E. Dummett, Lord Thankerton, Lord Greenwood, K.C., Mr. Justice Greaves-Lord, Mr. R. Storry Deans, Mr. A. Andrewes Uthwatt, Mr. Justice Hilbery, Mr. Noel Middleton, K.C., Mr. N. L. C. Macaskie, K.C., Sir Albion Richardson, K.C., Sir Shadi Lal, Mr. A. D. McNair, Mr. D. P. Maxwell Fyfe, K.C, M.P., and the preacher (Canon F. B. Ottley).

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room, on Monday, 23rd November, at 8 p.m. Mr. T. A. Holford proposed the motion: "That this House deplores the lack of foreign support of the Spanish Government." Mr. J. W. F. Bartholomew opposed. Messrs. Ball, Lawton, S. A. Redfern, C. H. Pritchard Miss Colwill, Mr. Davis (a visitor), Mrs. Mulligan (a visitor), Messrs. Nicholson (a visitor), Hill, Gibbons, McQuown and Kent also spoke. The motion was put to the House and lost by 11 votes. Attendance 27, including five visitors.

The Hardwicke Society.

A meeting of the Society was held on Friday, 20th November, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. J. A. Petrie, in the chair. Mr. J. E. Harper moved: "That this House deplores the re-armament policy of H.M. Government." Mr. Campbell Prosser opposed. There also spoke Mr. J. A. Grieves, Dr. Regendanz, Mr. J. Reginald Jones, Mr. A. Newman Hall, Mr. A. A. Baden Fuller, Col. Ricket, Mr. J. Willis, Mr. Walter Stewart, Mr. J. A. Petrie (President). The Hon. Mover having replied, the House divided, and the motion was lost by six votes.

The Dublin Law Students' Debating Society.

A meeting of the Society was held in King's Inns, on Tuesday, 17th November, with Mr. Tynan, B.L., in the chair. The purpose of the meeting was to hold a legal debate, namely, *Henderson* v. *Stevenson*, reported in L.R. 2 H.L., Sc. App. Mr. McDermott opened for the appellant company, being supported by Messrs. Jennings, Peart, McSwiney and Neville. Mr. Mason, followed by Messrs. McDavitte, O'Duibhir and

Bradfield (England), replied for the respondent. The Chairman after hearing lengthy arguments from both sides, dismissed the appeal.

A meeting of the Society was again held on Thursday, 19th November, with Mr. Fossett, B.L., in the chair. On this occasion a mock trial was staged on the basis of tort. Mr. Heavey leading and Mr. McDermott with him for one side, while Mr. Jennings appeared for the other side, Mr. McDevitt with him. After examination of witnesses at some length a settlement was reached and the Chairman entered judgment accordingly.

Legal Notes and News.

Honours and Appointments.

Mr. HEBER HART, K.C., has been elected Treasurer of the Middle Temple for the ensuing year.

Mr. KENNETH LOADER, solicitor, senior partner in the firm of Messrs. J. E. Dell & Loader, of Brighton and Shoreham, has been appointed Solicitor to the Southwick Urban Council in succession to the late Mr. J. E. Dell. Mr. Loader was admitted a solicitor in 1900.

Mr. R. C. HANSEN, solicitor, deputy clerk to Herefordshire County Council, has been appointed clerk to the council in succession to Dr. E. W. Maples, who is retiring next March. Mr. Hansen was admitted a solicitor in 1929.

Major DAVID BASIL HARMAN WARNER, solicitor, of Tonbridge, has been appointed Clerk to the Magistrates of the Tonbridge Petty Sessional Division in succession to his father, Lieutenant-Colonel Charles Warner, who has resigned. Major Warner was admitted a solicitor in 1927.

Mr. A. F. Laird, B.A. (Cantab.), Assistant Solicitor to Cambridge Corporation, has been appointed Assistant Solicitor to Lincoln Corporation. Mr. Laird was admitted a solicitor in February, 1936.

The members of the Lancashire and Cheshire Students' Society of the Incorporated Association of Rating and Valuation Officers spent a useful evening at Liverpool on the 4th November, during which discussions took place on various interesting topics relating to rating and valuation. At a meeting at Manchester on the 18th November the members were addressed by Mr. H. P. Hobbs, F.S.I., L.R.I.B.A., Valuer to the Manchester Rating Authority, on the subject of the "Valuation of Licensed Premises."

Mr. Lowell Aldersey White, solicitor, of Farnham, left £15,663, with net personalty, £15,480.

Court Papers.

Supreme Court of Judicature.

DATE.	EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	GROUP I. MR. JUSTICE BENNETT. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Nov. 30	Blaker	Andrews	Andrews	Ritchie
Dec. 1	More	Jones	*More	Andrews
,, 2	Hicks Beach	Ritchie	*Hicks Beach	Jones
,, 3	Andrews	Blaker	Blaker	Hicks Beach
,, 4	Jones	More	*Jones	Blaker
,, 5	Ritchie	Hicks Beach	Ritchie	More

	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part I.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
Nov. 30	*More	*Jones	Hicks Beach	*Blaker
Dec. 1	*Ritchie	*Hicks Beach	Blaker	Jones
,, 2	*Blaker	*Andrews	More	Ritchie
,, 3	*Jones	More	Ritchie	*Andrews
,, 4	Hicks Beach	*Ritchie	Andrews	More
,, 5	Andrews	Blaker	Jones	Hicks Beach

*The Registrar will be in Chambers on these days, and also on the day when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 3rd December, 1936.

	Div. Months.	Middle Price 25 Nov. 1936.	Flat Interest Yield.	‡Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	115½	3 9 3	2 19 3
Consols 2½%	JAJO	84½	2 19 2	—
War Loan 3½% 1952 or after	JD	106	3 6 0	3 0 5
Funding 4% Loan 1960-90	MN	117	3 8 5	2 19 4
Funding 3% Loan 1959-69	AO	101¾	2 18 11	2 17 10
Funding 2½% Loan 1956-61	AO	92¾	2 13 11	2 18 5
Victory 4% Loan Av. life 23 years	MS	115¼	3 9 5	3 1 3
Conversion 5% Loan 1944-64	MN	117½	4 5 1	2 5 5
Conversion 4½% Loan 1940-44	JJ	110	4 1 10	2 7 2
Conversion 3½% Loan 1961 or after	AO	107	3 5 5	3 1 7
Conversion 3% Loan 1948-53	MS	103¾	2 17 10	2 12 0
Conversion 2½% Loan 1944-49	AO	100¾	2 9 7	2 7 9
Local Loans 3% Stock 1912 or after	JAJO	97½	3 1 6	—
Bank Stock	AO	379	3 3 4	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	89	3 1 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97	3 1 10	—
India 4½% 1950-55	MN	115	3 18 3	3 1 8
India 3½% 1931 or after	JAJO	99¾	3 10 2	—
India 3% 1948 or after	JAJO	87½	3 8 7	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 3
Sudan 4% 1974 Red. in part after 1950	MN	114½	3 9 10	2 14 10
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 13 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	111	4 1 1	2 3 2
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	94	2 13 2	2 18 3
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 4 4
Australia (C'mm'nw'th) 3% 1955-58	AO	96	3 2 6	3 5 2
Canada 4% 1953-58	MS	113	3 10 10	3 0 2
*Natal 3% 1929-49	JJ	102	2 18 10	—
*New South Wales 3½% 1930-50	JJ	102	3 8 8	—
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	115	3 9 7	3 3 4
*Queensland 3½% 1950-70	JJ	102	3 8 8	3 6 2
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	99	3 0 7	—
*Croydon 3% 1940-60	AO	101	2 19 5	2 13 1
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	97	3 1 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	82	3 1 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	97½	3 1 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	—
Metropolitan Water Board 3% "A" 1963-2003	AO	99	3 0 7	3 0 8
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 16 11
Middlesex County Council 4% 1952-72	MN	113½	3 10 6	2 18 7
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 3 1
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115	3 9 7	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	125½	3 19 8	—
Southern Rly. 4% Debenture	JJ	113½	3 10 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112½	3 11 1	3 5 6
Southern Rly. 5% Guaranteed	MA	133½	3 14 11	—
Southern Rly. 5% Preference	MA	125½	3 19 8	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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